UNITED STATES OF AMERICA

NATIONAL TRANSPORTATION SAFETY BOARD

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In the matter of: *

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MARINE BOARD OF INVESTIGATION *

INTO THE SINKING OF THE *SCANDIES ROSE* *

ON DECEMBER 31, 2019 *

*

* *

Edmonds Center for the Arts
Seattle, Washington

Monday,
March 1, 2021

APPEARANCES:

Marine Board of Investigation

CAPT GREGORY CALLAGHAN, Chairman
CDR KAREN DENNY, Member
LCDR MICHAEL COMERFORD, Member

Technical Advisors

LT SHARYL PELS, Attorney Advisor
KEITH FAWCETT, Technical Advisor

National Transportation Safety Board

BARTON BARNUM, Investigator in Charge
PAUL SUFFERN, Meteorologist

Parties in Interest

MICHAEL BARCOTT, Esq.
Holmes Weddle & Barcott
(On behalf of Scandies Rose Fishing Company, LLC)

NIGEL STACEY, Esq.
Stacey & Jacobsen PLC
(On behalf of survivors Dean Gribble and John Lawler)

Also Present

LT IAN McPHILLIPS, Recorder

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P R O C E E D I N G S

(8:00 a.m.)

CAPT CALLAGHAN: It is 0800 on March 1st, 2021, and this hearing is now in session. Good morning ladies and gentlemen. I'm Captain Greg Callaghan, United States Coast Guard Chief of Prevention for the 11th Coast Guard District. I'm the Chairman of the Coast Guard Marine Board of Investigation and the presiding officer over these proceedings.

The Marine Board has established a COVID mitigation plan to comply with federal, state, and local requirements. As a result, no members of the public will be permitted to view this hearing in person. The Board will receive witness testimony through a hybrid of in-person, virtual, and telephonic means. Members of the Board have been spaced out far enough at the main table to remove their masks while seated to maximize clarity and minimize disruption. Members are to place masks back on at any time when leaving the table and whenever approached by another person. I ask that anyone who is unable to remain social distancing, please keep their mask on unless actively speaking into the microphone.

Due to the extensive technology used to support this hearing and a potential for unanticipated delays or challenges, I ask that you please be patient with us in the event of any disruptions.

The Commandant of the Coast Guard has convened this Board under the authority of Title 46 U.S.C. Section 6301 and Title 46 C.F.R. Part 4 to investigate the circumstances surrounding the

sinking of the commercial fishing vessel *Scandies Rose* with the loss of five lives on December 31st, 2019, while transiting in the vicinity of Sutwik Island, Alaska. There were two survivors.

I would like to take this opportunity to express my condolences to the family and friends of the five crew members who were lost at sea. I note that many of you are watching this hearing on livestream due to the COVID restrictions in place, and we appreciate you being here joining us.

Upon completion of the investigation, this Marine Board will submit its report of findings, conclusions, and recommendations to the Commandant of the United States Coast Guard. Other than myself, the members of this board include Commander Karen Denny and Lieutenant Commander Mike Comerford. The legal counsel to this board is Lieutenant Sharyl Pels. The recorder is Lieutenant Ian McPhillips. Coast Guard technical advisors to this board are Mr. Scott Giard and Mr. Keith Fawcett. This Board's media liaison is Mr. Scott McCann.

The National Transportation Safety Board is also participating in this hearing. Mr. Bart Barnum, Investigator in Charge for the NTSB's *Scandies Rose* investigation, is here with us, along with Mr. Paul Suffern.

Witness are appearing before the Board to provide valuable information that will assist this investigation. We request that all members of the public be courteous to the witnesses and respect their right to privacy.

The members of the press are welcome to attend virtually and provisions have been made during the proceedings to allow the media to do so. The news media may question witnesses concerning the testimony they have given after I have released them from these proceedings. I ask that any such interviews be conducted with full consideration of the COVID mitigation procedures that the Marine Board has established.

The investigation will determine as closely as possible the factors that contributed to the incident so that proper recommendations for the prevention of similar casualties may be made; whether there is evidence that any act of misconduct, inattention to duty, negligence, or willful violation of the law on the part of any licensed or credentialed person contributed to the casualty; and whether there is evidence that any Coast Guard personnel or any representative or employee of any other government agency or any other person caused or contributed to the casualty.

The Marine Board planned this two-week hearing to examine all events relating to the loss of the *Scandies Rose* and five crew members. The hearing will explore crewmember duties and qualifications, shore side support operations, vessel stability, weather factors, effects of icing, safety equipment, the operation of the vessel from the past up to and including the accident voyage, and survey imagery of the vessel in its final resting place. The hearing will also include a review of industry and

regulatory safety programs, as well as the U.S. Coast Guard Search and Rescue activities related to the response phase of the accident after the notification that the *Scandies Rose* was in destress.

The Coast Guard has designated parties in interest to this investigation. In Coast Guard marine casualty investigations, a party in interest is an individual, organization, or other entity that under the existing evidence or because of his or her position may have been responsible for or contributed to the casualty. A party in interest may also be an individual, organization, or other entity having a direct interest in the investigation in demonstrating the potential for contributing significantly to the completeness of the investigation or otherwise enhancing the safety of life and property at sea through participation as party in interest.

All parties in interest have a statutory right to employ counsel to represent them, to cross-examine witnesses, and have witnesses called on their behalf. Witnesses who are not designated as parties in interest may be assisted by counsel for the purpose of advising them concerning their rights. However, such counsel are not permitted to examine or cross-examine other witnesses or otherwise participate in the investigation.

I will now read the list of those organizations and individuals whom I've previously designed as parties in interest: Scandies Rose Fishing Company LLC, represented by counsel who are

here in person today; crewpersons Mr. Dean Gribble and Mr. John Lawler, represented by counsel who are appearing virtually today; and Mr. Bruce Culver, not present at this time.

The Marine Board will place all witnesses under oath. When testifying under oath, a witness is subject to the federal laws and penalties for perjury for making false statements under Title 18 U.S.C. Section 1001. Penalties could include a fine of up to $250,000 or imprisonment up to five years or both.

The sources of information to which this investigation will inquire are many and varied. Since the date of the casualty, the NTSB and Coast Guard have conducted substantial evidence collection activities, and some of that previously collected evidence will be considered during these hearings. Should any person have or believe he or she has information not brought forth but which might be of direct significance, that person is urged to bring that information to my attention by emailing uscg.scandiesrosembi@gmail.com. This email address will be continuously monitored.

Mr. Bart Barnum will now say a few words on behalf of the NTSB.

MR. BARNUM: Good morning. I am Bart Barnum, Investigator in Charge of the National Transportation Safety Board's investigation of this accident. The Safety Board is an independent federal agency which under the Independent Safety Board Act of 1974 is required to determine the cause or probable cause of this

accident, to issue a report of the facts, conditions and circumstances related to it, and make any recommendations for measures to prevent similar accidents.

The NTSB has joined this hearing to avoid duplicating the development of facts. Nevertheless, I do wish to point out this does not preclude the NTSB from developing additional information separately from this proceeding if that becomes necessary.

At the conclusion of this hearing, the NTSB will analyze the facts of this accident and determine the probable cause independent of the Coast Guard. At a future date, a separate report of the NTSB's findings will be issued, which will include our official determination of the probable cause of this accident. If appropriate, the Safety Board will issue recommendations to correct safety problems discovered during this investigation. These recommendations may be made in advance of the report.

In addition, on behalf of the NTSB, I would like to offer my deepest condolences to the families and those affected by this tragic accident. Thank you.

CAPT CALLAGHAN: Thank you, Mr. Barnum.

In the first five days of this hearing, we heard from owners of the *Scandies Rose* and several fishermen who had sailed onboard the *Scandies Rose* or had close contact with the vessel before the incident. We also heard from a panel of professional engineers who regularly evaluate vessel stability and had a detailed review of the post casualty stability analysis that was conducted by the

Coast Guard. Most notably, we heard the emotional firsthand accounts from one of the two survivors.

As I stated on the record Friday, I have decided that the Board will not hear the testimony of *Scandies Rose*'s crewmember and incident survivor Mr. Dean Gribble during this formal hearing. On September 23rd, 2020, the Board conducted a recorded interview with Mr. Gribble that was extensive and was attended by the National Transportation Safety Board and all parties in interest representatives that were named at that time. All parties present had the opportunity to examine and cross-examine Mr. Gribble during the approximately five-hour interview. The complete recording of this interview is now posted to the Coast Guard media website for public viewing and on livestream. After reviewing Mr. Gribble's previous interview and considering the emotional nature of his testimony, I have determined that the Board does not need additional information from Mr. Gribble during this formal hearing.

Today, we will hear from a representative from the Coast Guard who will speak about the fishing vessel program, representatives from lifesaving equipment servicing company, and a Coast Guard Search and Rescue specialist who will review the Coast Guard efforts once the distress call from the *Scandies Rose* was received.

At this time, we will go to a short recess and resume at 0815.

(Off the record at 8:10 a.m.)

(On the record at 8:15 a.m.)

CAPT CALLAGHAN: The time is now 0815. This hearing is now back in session. We will now hear from Mr. Joe Myers.

Mr. Myers, Lieutenant McPhillips will now administer your oath and ask for some -- ask you some preliminary questions.

LT McPHILLIPS: Please stand and raise your right hand.

(Whereupon,

JOSEPH MYERS

was called as a witness and, after being first duly sworn, was examined and testified as follows:)

LT McPHILLIPS: Please be seated. Please state your full name and spell your last name.

THE WITNESS: Joseph David Myers, M-y-e-r-s.

LT McPHILLIPS: Please identify counsel or representative if present.

THE WITNESS: My counsel is Lieutenant Commander Matthew Pekoske.

LT McPHILLIPS: Counsel, please spell and state your last name, as well as your firm or company relationship.

LCDR PEKOSKE: Lieutenant Commander Matthew Pekoske, P-e-k-o-s-k-e, Coast Guard Judge Advocate, witness counsel to Mr. Joseph Myers.

LT McPHILLIPS: Mr. Myers, please tell us, what is your current employment and position?

THE WITNESS: I'm current employed with the U.S. Coast Guard. My current position, I'm the chief of the Fishing Vessel Safety Division of the Coast Guard Office of Commercial Vessel Compliance at Coast Guard Headquarters.

LT McPHILLIPS: What are your general responsibilities in that job?

THE WITNESS: General responsibilities, I supervise and manage the Coast Guard's fishing safety program for the United States and I'm responsible for all facets of program policy implementation, acting on statutory mandates and regulations.

I manage the fishing vessel district coordinator and examiner programs along with overseeing certain aspects of training, dockside exams and various facets of the program depending on the region involved. And I am also involved with responding to congressional NGO reports.

LT McPHILLIPS: Can you briefly tell us your relevant work history?

THE WITNESS: My work history, I've been with the Coast Guard for 38 years, and 27 of that being active duty and I've been retired for the rest. I started off on Coast Guard cutters and -- as a damage control man welder. I transitioned into marine inspections as a marine inspector with various quals. I managed port state control fishing vessel examiner and marine inspection courses at the marine inspection schoolhouse for several years, and then I transitioned up to Coast Guard headquarters into my

current position.

LT McPHILLIPS: What is your education related to that position?

THE WITNESS: My education, well, I have an MBA and a degree in human resources, but education in that position I would say is just linked to the marine inspector background.

LT McPHILLIPS: Do you have any professional licenses or certificates related to your position?

THE WITNESS: I am a certified welder educator with the American Welding Society.

LT McPHILLIPS: Thank you. Captain Callaghan --

THE WITNESS: And I have --

LT McPHILLIPS: I apologize. I apologize. I spoke on top of you.

THE WITNESS: No, sir. It's fine.

LT McPHILLIPS: Well, thank you, Mr. Myers. Captain Callaghan will have follow-up questions for you.

CAPT CALLAGHAN: Thank you for being with us today, Mr. Myers. I'm going to pass it over to Mr. Keith Fawcett who will be asking questions of you, sir.

Mr. Fawcett?

MR. FAWCETT: Thank you, Captain.

Good morning, Mr. Myers.

THE WITNESS: Good morning.

BY MR. FAWCETT:

Q. So all of my questions are related to the work of the Coast Guard in the realm of commercial fishing vessel safety, and specifically, our area of interest is for vessels the size of the *Scandies Rose*, which is under 200 tons. There are some regulations for larger vessels, but we want to not confuse the public and focus on under 200 tons vessels.

So if you'd like to take a break, please let us know. And we will be putting exhibits up on the monitor in front of you, and if you'd like to have us move around or scroll down, please indicate to us and our recorder, Lieutenant McPhillips, will move to that area so you can take a good look. And take your time. Don't be rushed. Give yourself plenty of time to look at the exhibits.

So one of the important things, stay away from any acronyms. The public doesn't understand that, in the world of the Coast Guard, we swim in an ocean of acronyms. And one example, like in your presentation, you have an organizational chart, and some of the labels -- for example, one is 5P. If you could describe what that position is as you walk us down through the organizational chart and do that for any other areas where we have Coast Guard unique acronyms.

So with that, I want to thank you for preparing an exhaustive presentation. And for the benefit of the public, this presentation will be posted as a Coast Guard exhibit, and they will be able to look at it in great detail at the conclusion of today's hearing.

So I would like to turn it over to you, sir, and ask you, Mr. Myers, that as we go through this presentation, if you'll tell Lieutenant McPhillips to advance the slide. This is not an auto program, so when you're finished with each slide, he'll advance to the next.

And then some of the slides have a very exhaustive explanation of policy, procedure, or regulation. If you could summarize that information because the presentation will be fully available to the public and to the Board for its analysis throughout the investigation, and the presentation will be posted at the end of the day.

So with that, sir, I would ask you to please call up the Coast Guard exhibit that represent Mr. Myers' presentation, and if you would, sir, walk us through it.

A. Great. Again, good morning, everyone, and I appreciate the opportunity to participate this morning. And so to begin with, you'll see on the first slide, this -- it's named Commercial Vessel Compliance Fishing Vessel Safety Division, CG-CVC-3, and the CG is Coast Guard, CVC is Commercial Vessel Compliance.

And so if we can go to the next slide, I'll give you a breakdown of -- this is a general breakdown of the, of the fishing vessel program organizational chart as a quick snapshot. Now, under the Coast Guard Deputy Commandant for Operations, the DCO, there are various levels and offices represented under the DCO. And CG-5P, that is prevention, that's -- and that's represented by

Admiral Timme. CG-5PC is prevention and compliance, and when you see CG-CVC, again, commercial vessel compliance, and then my division, CG-CVC-3, one of the divisions within CVC, or commercial vessel compliance, is fishing vessel safety.

Now, though we don't directly supervise, we impact and our policies and program impacts a gamete of other areas and Coast Guard districts and their field units and district coordinators, et cetera. And so that is why you see, under CVC-3, we do impact, to a certain extent, a LantArea and PacArea, which is broken up into various districts, which are District 1, 5, 7, 8, 9, 11, 13, et cetera. For example, District 1 is in the New England area, District 17 being Alaska, District 5 being Florida predominantly.

Amongst these different areas, my division, CVC-3, has four individuals on staff, myself and three others. LantArea has two representatives. You'll see ten fishing vessel district coordinators, and with the fishing vessel safety examiners, this is on or about -- it fluctuates from time to time depending on billets being filled or going vacant, but there's about 76 fishing vessel safety examiners billets of the Coast Guard. And amongst that, and I'm sure we'll get into talking about third party organizations that augment the fishing vessel exam program on behalf of the Coast Guard, and with those third-party organizations we have -- actually, as of -- eight. We have seven reflected there, but we have a new position that came into being this past week.

The next slide please.

This is a quick snapshot of our fishing vessel population in the U.S. domestic fleet nationwide, and you'll see there's roughly -- there's about 65,336 commercial fishing vessels out there. These are broken into documented vessels and state vessels, documented being five net tons and above and state vessels being registered by state. And amongst those, we -- I've also reflected a small breakdown of fishing vessels and fish processors and fish tender vessels by documentation and state that we have done examinations on recently, just to give you a snapshot of that population. Also, with regard to fishing vessels in D-13 and D-17, we have the number reflected there and fish tender vessels also being, for example, in D-13, 33 and D-17, 72. Okay. So that's, again, just a rough snapshot of our population that we deal with daily.

Next slide please.

And with that population of vessels -- and all these numbers, by the way, are drawn from our marine information safety and law enforcement, MISLE, database as we call it. And this is just a breakdown of fishing vessel subtypes. So for example, pot/trap vessels nationwide, about 5,460. We have a reflection of longliners, trawlers, divers, dredgers, et cetera. So depending on the type of fishing industry vessel, this is just a rough breakdown.

Next slide please.

And now this -- I was asked in part of the preps to give a basic breakdown in the advances in legislation and how they have impacted the commercial fishing industry. And so, briefly, we offer a snapshot of the Commercial Fishing Industry Vessel Safety Act of 1988, and what this Act did was it authorized the establishment of certain regulations that shaped what we know as 46 C.F.R. Part 28 Regulations today: lifesaving equipment, communications, distress signals, firefighting equipment, et cetera.

And this also -- this Act also established the Commercial Fishing Safety Advisory Committee as we know it today also. And a little bit later, we'll get into how that is transitioned into the National Fishing Vessel Safety Advisory Committee. But in a sense, this was the beginning.

The Coast Guard Authorization -- well, let -- before the Coast Guard Authorization Act of 2010, we had a few initiatives that built up to this 2010 Auth Act, or Authorization Act. And in March of 2008, we had an Advanced Notice of Proposed Rulemaking, and what this -- and they called it an ANPRM, again, an Advanced Notice of Proposed Rulemaking. And what this, what this rulemaking project proposed -- and this was posted on the Federal Register, USCG-2003-16158. That was the docket number. But what this, what this initiative proposed was to build new regs for -- that would encompass stability requirements, vessel maintenance, safety training, et cetera, high water alarms, you know, more

detailed requirements in the regs. And then we march forward to 2010, and then we had the 2010 Authorization Act that established many of these things, training, safety equipment requirements, and Alternate Safety Compliance Program initiative.

Now the -- we add the Coast Guard and Marine Transportation Act, the Coast Guard and Marine Transportation Act of 2012, and the big impact of this was, in 2013, there was requirements, statutory requirements enacted for classing and load line requirements. And we'll talk a little bit about that later.

And in 2015, as you see, we have an Auth Act that influenced five-year mandatory exams for vessels working beyond three nautical miles and, again, requiring dockside exams at least once every five years and COC, or Certificate of Compliance, requirements.

Now what I, what I would like to add is after the -- after 2015, in June of 2016, there was an announcement on the Federal Register to withdraw that ANPRM, that Advanced Notice of Proposed Rulemaking I initially discussed, and the reason being was to focus on new rule -- a new rulemaking project that would incorporate 2010 and 2012 legislation that had gone into effect. So, in a sense, then, we pulled back on that ANPRM.

And that same month in June on the Federal Register, a Notice of Proposed Rulemaking project was announced, USCG-2012-TAC-0025, and this was proposed legislation to align fishing vessel, fishing vessel regs with the -- again, the mandatory requirements of the

2010 and 2012 Authorization Acts.

I know that's a lot to take in, but it's a complex animal. And so, that being said -- but there is one special note that, with this new rulemaking project, which we'll get into a little bit later, this did not reflect any of the provisions, any of the provisions of the Coast Guard Authorization Act of 2015.

Okay. Let's go to the next slide, unless there are any questions? Okay. Next slide, please -- oh, there we go. Thank you.

I briefly hit on the 2015 Coast Guard Authorization Act, and a key note with this Act is that it offered a new construction alternative to class option. And following these Authorization Acts, if we go back to that 2010 Auth Act -- or that Authorization Act; I want to watch those acronyms -- there was a requirement statutorily for the classification of vessels after 2000 -- I believe it was July of 2013 and also the load lining of commercial fishing industry vessels after 1 July 2015.

Well, in 2015, there was an alternative to those -- to that requirement, and this now encompasses a population of between 50 feet and 180 feet. And that's very important to recognize because what this allows is certain fishing vessels being built after 2016 to be designed by a state registered naval architect or marine engineer under the oversight of a marine surveyor that have periodic surveys throughout the shelf life of the vessel, for example, several times in five years, and again, to be audited and

reviewed -- subject to audit and review. So that kicked off in 2015.

Then, moving forward, the Coast Guard Authorization Act of 2018, there were new reporting requirements of adequacy tied to the Alternate Safety Compliance Program and these new alternative to class requirements, and those are in 46 U.S.C. 4503(d) as you'll see in the bullet. There were also initiatives in the Act enabled in the statute targeting fishing training and fishing research grants, $6 million grants, for example, annually for so many years, which we're working closely with NIOSH to manage, and that initiative is going well. Also, the Act required us to implement a national fishing vessel communications plan and other provisions.

The Coast Guard Authorization Act of 2020 changed certain grant initiatives. For example, they boosted up the federal cost share to 75 percent, which is a great assistance to those applying to grants. And it also changed -- this Act also changed the name from the Commercial Fishing Safety Advisory Committee to the National Safety Advisory Committee. And, again, this is important to note because the bylaws and certain requirements required the committee had to restart this past December.

So that's a quick snapshot of the Authorization Acts. Again, very detailed, and to be aware and and be abreast of these Acts, it's a lot of homework, and sometimes, you have to read them several times to soak everything in because there are a lot of

moving parts.

If we could move to the next slide, please.

And so what this next slide gets into is the reg process. I gave you a quick brief, a quick brief and a breakdown of, you know, these Authorization Acts which result in statutory law which are implemented in U.S. Code, for example, for certain facets of the commercial fishing industry and the maritime industry for that sake. But we're concerned -- we're talking fishing vessel safety this morning, and so what I -- everything I'm focusing on when I'm talking about statutory requirements are predominantly in 46 U.S. Code and the different parts of that.

And so, when there is a need for regulation in general, there's a couple of different avenues that could be pursued. And that could be a program initiated reg project and program, for example, would initiate a reg proposal or a reg project proposal or the stakeholder population, industry or other facets of the fishing industry community, could petition for a regulation or something to come into law.

And, again, there's a process and legal requirements that eventually may result in an Authorization Act. And then, if it reaches that point, when we get into statute and law again, a lot of those are reflected in U.S. Code, and then there may be mandates depending on the language. Some of that language may be self-executing. For example, there may be a very specific requirement that has an implementation date connected to it, and

it is very clear and concise, and so it's self-executing. Or you may have a topic that is non-self-executing that may require further elaboration and detail and it may be appropriate to flesh it out, flesh out the details in a rulemaking project that would result in a regulation. So that is the statute and law.

And then we transition them to the rulemaking project. Traditionally, when we assign a project to -- we have a reg team, there's a structure and procedure that looks at public comments, Federal Register publications to be very transparent with the public. And those may involve analysis and further analysis with the public comment, economic studies, et cetera. And then those are vetted by the Agency and DHS, Department of Homeland Security, part -- counterparts before release to a unified agenda. And what the unified agenda does is this will give us an up-to-date status of where that group project may be.

So that being said, if we could go to the next slide.

And so this rule project that I mentioned previous, that Docket USCG-2012-0025, again, that is the rulemaking project that targets the mandates by statute as reflected by the 2010 and 2012 Authorization Act legislation.

And that -- the status of this rulemaking project is available to the public if you go to reg.info.gov, and I actually give a link to that in the slide, and what that is -- what that provides you with is some basic information, such as when that NPRM went public for public comment, and you can see it actually

went out for public comment several times, and then the current status, which you'll see a TBD, which is to be determined, and what that means is that this rule project is in a, in a, I'll say, standby status, or it's -- some call it an abatement where it is, it has not taken traction in the last year. And the due -- the date for release as a final rule is to be determined.

And so that being said, I'm limited to what I can say other than what is posted in the, in the unified agenda, and sometimes there's various contributors that may speed up or slow down the release of a rule project. And again, with regard to this project, that -- I can't offer a whole lot more to that. And basically, this is what we conveyed during our last Fishing Safety Advisory Committee. And we have our annual meetings, we do update the advisory committee where we can on the status of this project, so that's all I have on that topic.

And then moving forward, I know we have a lot of topics here, so I'll go onto the next one, and I'm sure there will be follow-up questions. Now, some of these Auth Acts, Authorization Acts and statutory requirements, they're very layered, and I like to call them, there's a lot of buckets. And depending on what bucket these regulatory requirements fall under, a lot of times they touch other buckets. I guess that's the simplest terms I can put them in. And so some requirements and some initiatives will influence others.

And so one of the initial requirements that -- or I should

say statutory requirements came out of the 2010 Authorization Act was to initiate an Alternate Safety Compliance Program. And the basic population for this Alternate Safety Compliance Program was to prescribe and develop in cooperation with the fishing industry an alternate standard that would apply to older commercial fishing industry vessels, basically that operate beyond three nautical miles, that are 25 years of age and older, and that are 50 feet and longer in length.

And if you remember, scrolling back to the 2012 Authorization Act, there were requirements for certain vessels to be classed, for example. Well, not necessarily for these vessels, because again, applicability-wise is they were built prior to that classing requirement, so they could have been built to a different or to no standard at all. So it just depends on the applicability of the vessel. So, that being said, there was an initiative or approach for Alternate Safety Compliance Program.

And if we can go to the next slide, please.

And so, in 2016, the Alternate Safety Compliance Program requirement acknowledged that older vessels required additional safety measures beyond those found in Part 28. And when I say Part 28, 46 C.F.R. Part 28, the fishing vessel safety requirements. The Coast Guard recognized that further development of an Alternate Safety Compliance Program was premature due to lack of alternative standards in the first place. And so that was the dilemma, the lack of standards to compare the Alternate

Compliance Standard to.

And so, with that said, back in 2016, the Coast Guard suspended the development of the Alternate Safety Compliance Program standards. And this was put out and detailed in the Marine Safety Information Bulletin 11-16. And that being said, it -- a new initiative was picked up, and this was in concert with feedback and networking and communicating with the fishing industry. And what developed was an Enhanced Oversight Program, and these were developed additional safety measures and voluntary safety best practices that certain fishing industries/vessels could adopt, hitting on stability, dry docking, maintaining your stability letter, for example. And, again, perhaps firefighting and lifesaving requirements. And this was a living and breathing -- intended to be a living, breathing document due to being embraced on a voluntary basis.

Now, just after the EOP, or the Enhanced Oversight Program, was launched, the names changed. And essentially, the package was the same, but the name of the EOP was renamed the Voluntary Safety Initiative and Good Marine Practice for Commercial Fishing Vessels Guide. It's a long-winded name, but basically it's a voluntary safety best practice guide for fishing vessels. This was released in 2017.

And next slide please.

And so, that being said, and still there were -- you know, we had the best practice guide as an initiative to address these same

fishing industry populations that were earmarked for the Alternate Safety Compliance Program, so a lot was happening around 2017.

And then, in 2018, the Coast Guard Authorization Act launched and gave us new legislation, and what that legislation did was it re-designated the Alternate Safety Compliance Program to a standalone sub-statute, which actually appears after the 46 U.S.C. 4503 topic or content. So it was actually provided its own sub-content area, and it was renamed 4503(a). And what this did is it changed the date of applicable fishing vessels to comply with the Alternate Safety Compliance Program from the old 2020 date to a new date stipulating a date three years after the date the Secretary prescribes an Alternate Safety Compliance Program and allows a separate Alternate Safety Compliance Program to be developed for specific regions and fisheries.

Now, what does all that mean? What that means is -- and again, I'll backpedal a little bit because when I talked about different buckets, the 2016 Authorization Act, if you recall, allowed for certain new alternative to class requirements in 4503(d), 46 U.S.C. 4503(d). Again, that's one bucket, and that allowed for alternatives to class.

Well, this new requirement charges the Secretary or the Coast Guard to monitor these new construction initiatives that are applicable to vessels built after 2016, and what we will do is monitor and sample those vessels over a period of time, and then ten years after the Authorization Act of 2016, the Coast Guard

will make a report to Congress and say, was this adequate or not? And if -- through sampling of these newly constructed vessels that have been surveyed and had certain oversight by marine surveyors and built to certain class standards, if we've sampled these vessels and found these vessels to be built and maintained adequately, we report back to Congress and make a determination whether we need an Alternate Safety Compliance Program, or if we've found that its not adequate, we report such. Okay?

So, again, a lot of information, but I'm happy to detail that out in any questions if there are any later.

If we can go to the next slide please.

And I'm not going to reread all this because basically what I've just -- as I was rambling on, I basically was discussing this slide here. So I guess I should have said, let's go to the next slide, but we're here, and so if you would like to, at a later time, absorb what I just communicated, it's pretty much conveyed in this slide. And the key thing is this analysis of adequacy to certain new construction requirements, that is actively ongoing now as we speak.

Next slide please.

Okay. So we talked about Authorization Acts. We talked a little about statutory requirements and how that impacts our -- the entire fishing industry and how these are, are put into different pockets and depending on -- or I'll say buckets, but different pockets of different regions of the U.S. have different

applicabilities and different concerns with all these statutory requirements. But one of the things they have in common is the fish and vessel safety dockside exam, and what -- and I'll say many have in common.

You know, when I've talked about the -- initially, the 64,000 fishing industry vessels out there throughout the U.S., we have a certain population that operates beyond three nautical miles from the baseline and some that work within three. If you work within three nautical miles from shore, a fishing dockside exam is optional. If you work beyond three nautical miles, you are required -- and you're commercial industry vessel fishing, you are required to have a dockside exam at least once every five years. That is in law. That is in statute in 46 U.S.C. 4502. And many things of what we do are based on that.

So that being said, with our fishing vessel dockside examiners and our dockside exam program, we have a checklist, and we use that checklist, and that's called a -- we go by the -- we coined the term the 5587. Basically this is a dockside exam form, Coast Guard Form 5587.

And if we could go to the next slide, please.

And within that form, the basic items that are checked for all vessels are, you know, first we determine, do you need the exam? And that's either voluntary or mandatory.

And then we move on to the next step. Okay, did -- at what point -- what portion of this 5587 dockside exam form do you need

to adhere to? Everything is driven on applicability. And so we hit different topics such as bridge, lifesaving, firefighting, certain engineering topics, you know. Does the vessel require operable bilge alarms, for example? Or you see the MSD, some vessels may require marine sanitation device. There may be pollution requirements and stability requirements for some vessels also.

And then where we're, where we're going with these different tiers of what may and may not be required, the 5587, this is a -- again, a compilation of all applicable federal requirements, not just in Part 28, but this could be in 33 C.F.R. 164 for Nav. We could have different pollution requirements that bring us out of Part 28. But it is dockside exam form; this is a tool for the examiner or the third-party organization that also may use this tool to, to kind of bring everything together.

And so we're -- it's broken into requirements for all vessels and then we may have specific requirements for vessels that, say, operate beyond the boundary line and have more than 16 people on board, for example. Or are solely a fish tender vessel. You know, they may have above and beyond the general requirements. They may have a separate area of applicable requirements that they are going to have to add onto.

And so let's go to the next slide, please.

And so that's the basic breakdown of the snapshot of the dockside exam form. And again, depending on the type of vessel,

where you operate and the length of the vessel, the gross tonnage, it's not a cookie cutter mold. It's -- you know, everything is driven on applicability. So you can't say everything is driven on length, for example. Well, length, yeah, it defines some things by placarding or whether you need a load line or not, but also gross tonnage may apply also. So really you've got to delve into first and foremost applicability.

But once we look at the general breakdown and general provision of Part 28, as we call it, Subchapter C, you know, certain things apply to all vessels. And so what I did is I gave you a comparison, because we're talking this week on fishing vessels and fish tender vessels, and there are some provisions that apply to both and some that don't.

And so this being said, I wanted you to look at the definition of fishing vessel versus fish tender vessel. And when you look at this definition, a fishing vessel means a vessel that commercially engages in catching, taking or harvesting of fish, et cetera, versus a fish tender vessel that stores, supplies, refrigerates, transports materials, et cetera. A very different scope. And so you're, in a sense, changing the type of vessel for a period of time when you transition from a fishing vessel to a fish tender vessel. You know, the focus of what you're doing and your purpose may change. And I'll say may because it depends on the fishing vessel operation or the fish tender vessel operations.

So if we can go to the next slide please.

With this slide, this offers a comparison of load lines and stability requirements applicability. Now it's -- one should understand that, with fishing industry vessels, the fishing vessels built before 1 July '13, as you're aware of now because we kind of talked about this with advancing legislation, if you're built before July of '13, you're not required a load line regardless of size. If you're built after that date, okay, you can see that you may be required load line, and it's dependent where your operations are.

And it should be noted, and again, everything hinged on applicability. Fishing vessels built before September 15 of '91 do not have regulations covering stability unless the vessel has been -- gone over a major conversion or alteration. Okay. Then that may restart the applicability. But again, if no major conversion has happened, you may not have regulations governing stability, like in these older vessels, you know, for example, built in the '70s. Fish tender vessel, as you can see, driving factor again is length, and if the vessel is 500 gross tons and upward regardless of build date.

And then we actually have a flow chart that helps determine -- there's a lot of statutory requirements, but in general, there are contributors that may affect load line applicability, and these are whether the vessel was constructed or converted in the '80s as reflected here on this slide.

Okay. And by the way -- could we go back to the last slide

for one second, please? I just want to talk about this fishing vessels built before 15, 1991, and we talk about alterations in accordance with 28.500, and that will be the next slide. I just want to give you a snapshot of what is encompassed in 46 C.F.R. 28.500 applicability, and it basically -- this captures vessels that are not required to have a load line, and in a sense, these vessels have to have certain oversight and stability instructions developed by a qualified individual.

And when we say qualified individual, by definition in Part 28, that is a naval architect, and these stability instructions must be formatted in easily understood manner in which the master or individual in charge can understand it. Okay? That's a key thing. You know, when we talk about, is that vessel, is that vessel safe, stability condition maintained? Well, okay, we have stability parameters that are outlined, for example, in the stability booklet, and periodically, if they're updated by a competent individual, the onus is on the master or individual in charge to be aware of that. And it's all about safety and knowing your safe parameters of your vessel, of course.

Next slide please.

I was asked to give a very brief rundown of the Fishing Vessel Safety Advisory Committee. I won't elaborate too much because I talked a little bit earlier on this with the Auth Act, but it is important to recognize again at the onset -- as a result of the Coast Guard Authorization Act of 1988, as we remember,

there one of the initiatives was to establish a Fishing Safety Advisory Committee. Well, that's been a very robust program for many years, and we've had a very solid partnership -- we, the Coast Guard and the advisory committee, as they represent various facets of industry, and have made very good recommendations that we always welcome and consider.

That said, the legislative requirements of the 2018 Authorization Act essentially changed the name of the advisory committee and where they are housed in U.S. Code. And so basically, they essentially are the same committee with a different name, but the same scope of responsibilities. Actually, the bylaws and statutes are all just about -- are very similar.

And last December, we made that transition, December 2020, transitioned to the National Fish Act, as we call it. And so we are right now in the motion of assigning a new committee, and it's in the process of approval. What that does is it gets approved by the Agency and then by the White House, and then we engage and we engage with that new committee.

And in a sense, what you see on this PowerPoint or this slide are some of the initiatives and responsibilities that the Fish Act oversees: navigation, equipment, procedures, vessel design, maintenance, qualifications, et cetera. We get feedback on all of these topics.

Next slide please.

And just as a snapshot of, hey, what have they contributed to

recently? They -- when I say they, the Fishing Safety Advisory Committee and the now soon to be National -- have contributed to many development of and comments that are leading and influencing safety standards of -- first and foremost stemming from the 2010 Auth Act where -- and I'll pick one, stability and damage control; I guess that's two, but those are two topics that have -- were looked at very carefully by both the committee and the Coast Guard, and we should see it on discussions for and initiatives for Coast Guard accepted courses.

And generally speaking, when a Coast Guard course is packaged up and approved and brought up for approval, that's routed up to the Coast Guard National Maritime Center, and they will review this package and approve it as an accepted course or an approved course. And the difference between accepted course and approved course, generally, accepted courses are a little more fluid and you can do certain training, for example, on the fishing vessel platform. And again, that could be maybe stability or damage control related. If it's an approved course, you may have a little more tighter restrictions. And that may be, for example, have to just sit in a classroom setting with certain media. So, again, a lot of times the accepted course is a little more user friendly because you can get more bang for your buck.

2010 and 2019, the North Pacific Fishing Vessel Owners Association, or NPFVOA, and AMSEA, the Alaska Marine Safety Education Association, they both were very diligent in their

efforts in packaging and shaping curriculums for damage control and stability and submitting that to the Coast Guard and those courses being accepted courses. And all these initiatives stemmed from one that the Authorization Act of 2010 and '12 and then the advisory committee and industry input, and then the result being accepted courses. So, again, that's a success story.

Right now, the committee's working on an initiative on man overboard studies that are focusing on fatalities and falls overboard on fishing industry vessels that are currently -- that's still being looked at by the committee and actually is being transitioned from the old committee to the new committee. So that's -- and if there's any questions, I can always go into the status and details of that.

Our last slide, I think -- or next to the last slide, please. Second to the last slide. Yeah.

Okay, so this -- I was asked to give a quick snapshot of high-risk fishing vessel initiatives, and as I've spoken before, there are, there are various buckets of topics, and some of them dovetail into each other and interconnect or touch. And so, and so you'll see a little theme here that there's been a concern that there are certain vessel populations that have been built prior to 1 July of '13 that are 50 feet or over in length and that trend -- that operate beyond three nautical miles from the baseline that may be -- that may have a higher risk than newer vessels, for example, that have been built and maintained to class society

rules.

And so remember, with all that history with the Authorization Acts and the recent statutory changes mandated construction or construction options alternatives class that first and foremost did not necessarily exist before 2013. So many of these -- you know, not all but many of these vessels were at risk due to their lack of design standards, lack of engineering, system oversights, and et cetera. So what this new initiative that kicked off back in September of 2020, what we, the Coast Guard, are doing is we are highly encouraging or trying to build an outreach incentive to reach out to this higher risk population to simply encourage them to maintain a two-year dockside exam.

And again, we recognize that we have the mandated five-year exam, and so we recognize that that's something that has not changed and still out there. When you do a dockside exam and get a sticker, that sticker is good for two years, and we simply want you to maintain that for two years for these older populations. And so why do you want to do that? And what that does is that allows a conversation between the examiner and the operator and a revisiting of vessel systems and the whole envelope of that vessel. And we think boots on deck will help result in a safer vessel and thus a platform.

We started off with a population of known vessels that are in this make up of about 4,800 vessels. Many of those have a dockside exam form. Many of those are maintaining a two-year

dockside exam decal. And so, since we began this initiative in September of last year with targeting these populations, we've actually successfully had 20 percent of this population reach out to us and get a dockside exam, a two-year dockside exam decal. Again, a success.

And if you have any pointed questions on this initiative, again, I'm happy to talk about that. Right now, we have about, I think, a focal population of about, maybe less than 900 that we're focusing on. And by the way, we're reaching out to them with letters and trying to get that conversation with each individual owner/operator.

And now, last but not least, I believe this is the last slide.

A quick snapshot of outreach initiatives. All of these are displayed on our DCO Fish Safe website, which is reflected right there. Again, the DCO for the Coast Guard, Deputy Commandant for Operations, uscg.mil/fishsafe site. You go to that site and you have training initiatives, marine safety information bulletins, new guidance. We have details on our Fishing Safety Advisory Committee, stability training, as I said, and things like a checklist generator that can allow the mariner to prepare for an exam and know exactly what they need to have on board before the examiner comes on board. And there's even a user-friendly stability, interactive, virtual type trainer that was crafted and is maintained by D-13, much to their credit. So a lot of good

things on that website.

And we detail our national communication plan and -- which I like to brag that, since our national communication plan has launched last year in July, we've reached out to 378,000 public, and with staff involvement of over 2,500 staff involvement with media, expos, training and launching of guidance such as marine safety information bulletins, et cetera. So that's just a very, very brief breakdown of our initiative, some of the programs we're involved with on a daily basis.

And that, if we go to the next slide, I think that is it with my, with my brief talking points. And so I'm open to any questions that I may be able to answer.

Q. Well, thank you, Mr. Myers. That was a thorough presentation, and we appreciate you putting that together. I have a few follow-ups before we move into the general questions that will follow. So in your presentation you mentioned public comments. Could you give me just in a general example of how many public comments you get when you put out Advance Notice for Rulemaking? Just a general sense.

A. I would say -- and I can't give you exact figures, of course, because I would have to go back and look at the dockets being that they're over five years old or plus. But I would say, on any given time when we put something out for public comment, we could get hundreds, several hundred of responses from industry, owner/operators, insurance companies, stakeholders, et cetera.

And when we get those comments, we put those into different pared-out categories, and then we -- within those categories, we may reach out to different subject matter experts such as, if it's appropriate, the Marine Safety Center, CG-ENG on perhaps lifesaving standards, et cetera. So that -- so we could have hundreds of responses, and we try our best to respond to each and every inquiry.

Q. So in general, could you characterize those public comments as supporting legislation related to fishing vessel safety or would the majority of them be not supportive for any particular reason?

A. I think every rule project is unique. And if we're concentrating on this past rule project, I would say each and every comment, no matter how little or no matter how in depth, we spoke in and that allows us to make a good judgment of the topic. And so we don't take any comment lightly. And we -- again, it's -- what that does is that allows us to move forward with the initiative itself in hand. And so I -- to answer your question, I would say that these comments do help us justify and support the decision to go forward with various details within a rule project, but we have to be able to support why we're making a decision in the long run.

Q. Were public comments related to the classification program one of the reasons that, that program was withdrawn?

A. I wish I could offer you more detail on that, but I can't,

specifically on that. Not to say that we can't do a little research and provide you a little more specifics, but right here and now, I couldn't comment that.

Q. So would it be a fair thing to say that if the Coast Guard enacts legislation, regulations, they could have an impact on the fishing industry in terms of the economy? In other words, it'd cost more money to do business?

A. I think every rule project -- every reg -- I'll say reg project. Every reg project has some kind of impact. That's why when we have a team, we put a reg project team together, part of that time, we do an economic analysis, and that is a standalone entity that is not necessarily connected to my division. It actually -- it's probably not, but a standalone entity that looks at economy impact and what that impact may have on the industry, operators, long-range, short-range. And so that is factored in, that analysis is factored into the big equation. So, again, everything has a cause and effect, and any time that there is any congressional legislation that results in an Auth Act or an Authorization Act, that's -- I am sure have been factored in very thoroughly.

Q. Then you said -- I'm sorry.

A. Yes, sir.

Q. Did you want to say something else, sir?

A. No, sir.

Q. So would it be fair to say that the Coast Guard is sensitive

to the economic impact of any proposed regulations for fishing vessels?

A. Yes, very sensitive.

Q. So my final question, just for clarification on your presentation before we move on to the general questions, and I'm sure some of my colleagues will have additional questions on your presentation, but you mentioned the fishing vessel safety communication plan. Could you elaborate on that?

A. Absolutely. We've -- one of the initiatives -- not initiatives. One of the mandates or statutory mandates that Coast Guard Authorization Act of 2019, it tasks the Secretary of the Coast Guard to institute a national communication plan. In years past, there was the perception, I'll say, that communications weren't as good as they could be between different agencies and the public. And so not just the commercial fishing industry but broadly, in a broad sense.

So what this task initiative did was it said, hey, listen, you're going to -- we want the Coast Guard to start tracking and bolstering the communication initiatives between the Coast Guard and industry to offer up more transparency. And when we say this, there's a lot, there's a lot involved. When we talk about media, fish expos, training initiatives, simply picking up a phone call, saying, hey, I need a dockside exam and I'm an adult. I mean, I get those -- I, personally, get those probably three a week. And I may, I may direct those out to the district coordinator. We

track all those conversations. And as I said, over -- and I think the number I communicated earlier was hundreds of thousands of interactions with industry just in six months, and sometimes that can be via radio or whatever.

So what does this do? This builds up transparency. It lets industry know that we're out there. On most of our correspondence, including our 5587 form, you know, we have a little line there on the bottom that says, hey, if you have any questions, contact us directly. And when I say us directly, that's -- I give them my division's email and contact information.

So when I say that, and again, this is part of the communications plan initiative, when we're reaching out to 1,200 at-risk fishing vessels, for example, we're just not saying, hey, you're at risk. We're having that discussion. And this piggybacks off this communication plan initiative where we give them our name and contact number and say, call us up, you know, each 1,200 of you, call us up. And if you have any questions, we'll have that discussion.

So what this does, again, it offers transparency. And I've been doing this for a while. I've been doing exams -- I started doing exams back in '98, and I tell you, our communications now today are a whole lot better than it was in 1998. And so that being said, that's a little snapshot of that communication plan and how they're trying to bolster up communications.

And my last parting shot is, in a couple of years, we're

required to provide a report to Congress in a very detailed report on how these initiatives are progressing and being tracked, and we communicate monthly with our district coordinators on progresses and how they are making progress on communications with the public.

MR. FAWCETT: So thank you, Mr. Myers -- pardon me. Thank you, Mr. Myers. That's all I have on your presentation, and I'll -- Captain has a couple of questions for you, sir. Thank you.

THE WITNESS: Yes, sir. Thank you.

CAPT CALLAGHAN: Thank you, sir, and I just have a couple of quick questions, and then I think I'd like to propose that we take a couple minute recess and then come back.

BY CAPT CALLAGHAN:

Q. But before we do that, so it's been over ten years and there's been at least four to five individual Coast Guard Authorization Act statutes related to commercial fishing vessels. How many regulations have actually been developed and promulgated for commercial fishing vessels in that time?

A. I will say, regulations as -- just to clarify, sir, regulations as reflected in 46 C.F.R.?

Q. That's correct.

A. And I would say in the past ten years, zero. And yeah, zero.

Q. Okay. Thank you. And then, with regarding stability, so no regulatory requirements governing stability for vessels built before 1991, and I noticed the Coast Guard's taken some

initiatives, as you spoke about, with regard to high-risk vessels, recognizing that with age comes some increased risk over time. So that initiative encourages Coast Guard presence, but am I correct in that doesn't change anything, like stability requirements? Is that true?

A. You are correct. And I would like to add in the lack of the regulatory arm for the -- for those older vessels, this is exactly why sometimes we're at a -- we're in a situation where applicability does just not apply to a certain vessel population, and that is why this at-risk initiative, knowing that certain requirements don't apply to the population, that simply boots on deck, we hope that we can recognize a problem before it happens. However, to your point, sir, that does not address certain stability concerns with older populations.

Q. Thank you for that.

CAPT CALLAGHAN: And so, at this point, I'd like to propose that we take a quick five-minute recess. It is now 0935. We'll resume at 10 o'clock.

CDR DENNY: The time.

CAPT CALLAGHAN: Yeah. I previously stated we would come back at 10 o'clock, and in notating our five-minute recess, my intent was to say that we would start back up at 0940, not 10 o'clock.

(Off the record at 9:35 a.m.)

(On the record at 9:43 a.m.)

CAPT CALLAGHAN: The time is now 0943, and this hearing is now back in session.

Mr. Myers, I'll now turn it back to Mr. Fawcett again.

Mr. Fawcett?

MR. FAWCETT: Thank you Captain.

BY MR. FAWCETT:

Q. So I want to circle back to the background questions that we started your testimony with, and could you tell us how long you worked within the fishing safety division of headquarters?

A. I started working in the fishing vessel safety division January of 2018. So three years.

Q. And how long have you been the division chief?

A. Three years.

Q. So have you ever worked as a commercial fisherman?

A. No.

Q. And as part of your training as a fishing vessel safety examiner, did you undertake rides on commercial fishing vessels? And by that I don't mean like head boats or charter boats; I mean working commercial fishing vessels.

A. No.

Q. And is that part of the training curriculum for the Coast Guard's active duty or civilian safety inspectors?

A. This is a -- what you speak of is more a district or sector initiative. I won't even say district. I would say the sector commander has the discretion with their training programs, if they

would. And this is with all types of vessels, be it a fishing vessel, a T-boat or a passenger ship to get, to get underway time for examiners that may have -- not have experience. Do we have that as a policy for commercial fishing industry vessels? No. But we always encourage the facetime with industry if that presents itself. So, for example, I've done it on other types of vessels as a marine inspector but not on fishing industry vessels. And so I do sort of leave that comment saying that it's not policy but it's encouraged.

Q. So in Mr. Wilwert's testimony the other day, he mentioned the gaps in safety inspectors in the active-duty community caused by transferees and in training. Are there any other gaps in the people that conduct the safety inspections from a policy and headquarters perspective?

A. Could you, could you elaborate a little bit more of what you're looking for here?

Q. Yeah. Do you think you have enough staff to fulfill your mission?

A. I think we have no indicators that we are understaffed. And that being said, when -- traditionally, when a dockside exam is requested -- and I'm just broadly -- you know, amongst all Coast Guard districts, but in general, we are very responsive in a relative short amount of time. And I'm just, I'm guesstimating here, but I'm saying within a week or two, we could be out on that vessel.

Now, this is always driven, of course, by the geography area. If I am in Baltimore and have -- and have a pool of examiners and I have a, maybe a two-mile drive to the dock, it may not take me that long to get down there, and I may have a pool of examiners. But if I'm in D-17, for example, well, you may have to fly out to a location.

So that I would say this, that -- so there's a lot of variables, with that said. But I think, in general, we're adequately staffed, and as far as I know as a program manager, there's no indicators that we have a deficiency in examiner assets.

Q. And by D-17, you meant the Alaska region, is that correct?

A. The Alaska region, yes. Yes.

Q. So if I'm a safety inspector and I want to provide feedback for improvements in the process of the inspection, how they're carried out or anything like that, how is that telegraphed up to the program headquarters so that they could affect change?

A. Well, one of the tools in the toolbox that we have is we hold periodic conference calls with our district coordinators. And with that said, we do a precursor to that conference call and -- for example, when we're scheduling a call, probably two weeks out, we will, we will reach out to the district coordinators to say, hey, here are the topics we're going to talk about; reach out to your folks -- and when we say your folks, your examiner pool -- and let us know their concerns and route up any concerns so we can

have a discussion during our conference call.

And it's just not the conference call. We have an open-door initiative that we say, hey, reach out to us any time. So we're very flexible. We are on a first name basis with most of our examiners and our district coordinators on many levels, and -- but if there's an issue, we expect them to voice some kind of concern up, be it reaching out to -- we'd like them to reach out to the district coordinator first and foremost because they may have already been dealing with that situation or a similar situation, so we like to route questions up.

But again, to hit what you're talking about here is we do have a very active, live mechanism where examiners and district coordinators can feel free to route up concerns that they may have. And just one example was we had very active discussions in the past year with COVID-19 and the new posture. Sometimes, depending on whatever district you are at, they -- you know, maybe you have a fishery observer onboard and they may have a different policy then what is regionally. You know, maybe it's a national policy and it doesn't jive with a local policy. So we would have those discussions and then we would voice those discussions with NOAA NEMS (ph.) and then we would close the loop back up with the examiner and the coordinators and have that transparency of concerns.

Q. So you mentioned the Coast Guard's Marine Safety Information Database. Is -- from your position within the program, do you

believe that it accurately reflects the details of commercial fishing vessels such as engine, horsepower, hull, whatever kind of material is used to fabricate the hull and so forth?

A. We have our -- and if you don't mind, I'll call it MISLE, but our database, our data collection covers many layers and many facets of the vessel makeup, you know, what type of hull it is, what color the hull is, what the gross tonnage is, various aspects. And so what I would say is I feel that it does reflect what is being asked on our dockside exam form. Could we improve it? I guess we could always look at areas that could be -- that show -- may show a track record of not satisfying a requirement.

And when I say a requirement, if we're, if we're pulling data and we have a void in that data, we may have to look at do we have adequate information. But I think, for the most part, the pedigree of information that is required for an uninspected vessel is in MISLE. Where you get the same information of a T-boat or a barge or inspector vessel, there's a lot more granular detail required of those vessels. But for an uninspected vessel, I would say in general, the snapshot of the vessel makeup is -- there are avenues that put that into MISLE.

Q. So you mentioned T-boat, and for the record, that is a small passenger vessel?

A. Yes. I'm sorry. Yeah, a small passenger vessel. Yes, sir.

Q. Sir -- Lieutenant McPhillips, could you please put up Coast Guard Exhibit 069? This is a chart of fishing vessel safety,

fishing vessel casualties.
A. Yep.
Q. And for the record, I will say that this was pulled from the Internet from the forward-facing website that's available to the public. And it's a very helpful graphic. Do you use this graphic to make briefs to Congress?
A. I'm not sure. Well, first and foremost, it is outwardly facing, obviously to your point. This -- I'm not sure if I've physically used this slide for Congress. However, the data that is reflected here, this is vetted, co-vetted between CVC-3 and IMV, which -- and the different applicable data collecting offices within Coast Guard headquarters. And any time we share any kind of information, we do make it a point to make sure it's, it's vetted applicable information. And so I would say I would be happy to share this with Congress if they asked for it because we know that this has been pulled out of the MISLE database.
Q. So for the record -- go ahead, sir.
A. And should be accurate as such.
Q. Yes. For the record, our last witness for the hearing will provide and explain the most up to date statistics on a variety of issues related to fishing vessel safety. But what I wanted to ask you was, is this used to drive policy from a headquarters standpoint?
A. Oh, you're asking is -- the question is, is this used to drive policy?

Q. That's correct.
A. I would say that all of these unfortunate major marine casualties, mishaps and sinkings, they're all relevant. And when we see data, you know, me personally, I want to see if that data has a trend and if, and if there's an issue within that data, does it project that there's needed attention to any certain area. When we look at this data right here, this reflects trends of lost fishing vessels, and thus -- so yes, clearly, at any time we are factoring in whether we have any focused initiatives, this does influence our thought process.

And we, as you can see here, in the '80s and '90s, it -- shockingly that, you know, you see numbers in the 200s. And they've gradually gone down, and for the most part, you can attribute that to certain legislation and tightening up of certain requirements and -- I won't say tightening, but the mandate of certain statutory requirements is probably more appropriate.

But what I would say also is, even though we were in the several hundreds in the '80s and '90s, even most recently when we have vessel sinkings in the thirties, or, you know, smaller numbers in the hundreds, but it's still a small number, it's still a number and it's still taken very seriously. And if there were one sinking, we would take that as serious as many sinkings because it's lives lost potentially. So we do factor that in, in the decision-making process and whether we proceed forward with certain initiatives.

Q. So, Lieutenant, could you scroll over so we're looking at the more recent data? So, Mr. Myers, could you talk to us what we're seeing in the recent data in terms of the trends from a program perspective?

A. Let me move these pictures here. You don't see what I see. Okay. There we go. I'm clearing my screen a little bit. Okay. What I see is a -- when we're looking at -- we see a very clear line of a gradual decrease in losses of fishing vessels, sinkings, losses of life and yearly averages. We could see that it flattened out a little bit, if you're looking at what I'm looking at. But again, in recent years, I see that they are averaging -- from a program perspective, from 2013 to '19, you know, we're 16 under, for example. And on average, you know, I think we could say thirties and forties. I don't have a calculator in front of me.

But what that's telling me is there's been legislation that has been inserted into U.S. Code that -- which mandate increased exams and certain elements of required instruction and/or load lines on certain applicable vessels. When I'm looking at those numbers there, I'm seeing something is getting better. And, you know, maybe it's not perfect. We'll never get to the perfect place. But it looks like that -- as a program perspective, it appears to me that recent Authorization Acts and statutory mandates have had a positive influence --

Q. So the --

A. -- in contrast to 20 years ago.
Q. So, Lieutenant McPhillips, if you'll scroll down to the note that begins with the word "excluded." Okay. So there is a note that says, excluded from these statistics are deaths from medical conditions, those that are self-inflicted or due to misconduct --
A. Yep.
Q. -- as well as vessel losses from non-operational activity such as while moored or docked in port. So do you know why the decision was made to exclude those conditions?
A. The recent -- you see that statement is being that this is an uninspected commercial vessel fleet that we respond to on many levels, be it exams or perhaps an IO, investigating officer, responding to a major marine casualty, for example, or death. Many times when -- at the end of the day when we're pulling some of our information out of MISLE, we have to try to distinguish whether that death on the fishing vessel, what was attributed to active commercial fishing on deck, or did the, did the person, for example, have a heart attack sleeping on the rack underway. And then, and then you'd have to -- you have to pare down what -- was this directly related to the fishing industry, active commercial fishing itself, or was it something different? So, again, that's why we see operational or non-operational. And sometimes we simply don't know. Sometimes we do know. But that's all drawn out during investigations.
Q. So if -- under this scenario, if a fishing vessel caught fire

at the dock and other vessels around were threatened by fire or firefighters might be injured in fighting that fire, that statistic would not be captured in this slide. Is that correct?
A. I think, I think you're correct for the most part. Where we would -- if a -- if you're at the pier and you have four fishing vessels and one caught fire, and the other neighboring vessel caught fire and perhaps was not manned and maybe they're at a cold vessel status, not working at the time, that would not, that would not be an active commercial fishing vessel.

Where we would have to look at this closer and split hairs, per se, is if that vessel that caught fire was loading pots or equipment and they were actively in the process of loading up to go fishing, well, okay, so now we would have to -- and I'm not, I'm not answering one way or another. But we would have to at least look at it to say whether they were -- whether Vessel A was involved in active fishing or engaged in getting ready to active fish, and was Vessel B none of the above, so -- but I think, in general, at pier side, we would normally say that is not active commercial fishing, but it's up to discussion and review.
Q. So when we speak to the medical conditions, in the *Scandies Rose* case, we have one person that had diabetes and required insulin. If that person went into diabetic coma and unfortunately there was a bad outcome for that, would that be captured in these statistics because he was an individual with diabetes and he had a severe diabetic coma and maybe passed away?

A. I would say the answer to that is, it's on a case-by-case basis. And why I say that is if a -- if there's a major marine casualty, a sinking, a death, what would happen next is we -- after there's response, for example, by the Coast Guard, the investigating officer would start the process of determining what actually happened. Sometimes that's very clear. Sometimes it is not very clear. And then, once they determine the causal factor or what happened during that instance, now we have to assume that, that information has gone into the report and the data collection, and all the details of that incident that occurred.

And so I think, to answer your question, it depends on the questions being asked to the survivors or to the, or to the -- what may be evident or objective evidence. And so I couldn't tell you necessarily by pulling up a vessel critical profile or a narrative 100 percent all the details that happened because that would have to be drawn out from somebody or a source or by objective evidence and it's served into that narrative. Does that make sense?

Q. Yes, it does. So who makes that case-by-case determination as to what would feed those statistics to develop that graph? Is it your office or is it the Coast Guard's Office of Investigations and Analysis?

A. The Coast Guard's Office of Investigations and Analysis is our go-to source when we need an official count. And this is a very detailed process because, depending on what is being asked,

they are very thorough at retrieving data from MISLE.

Now, my office, on any given day, we have resources where we can retrieve general information from our database, such as if I wanted to know a number of a certain amount of vessels that are a certain length. But if we wanted to know the details of a -- the details of certain deaths, for example, or certain mishaps, that may require a lot of leg work of the Office of Investigations or IV going into every MISLE case, every case for that subject type of vessel over the span of so many years and reading narratives and looking at details to see if a person having diabetes or a heart condition was even reflected into that case itself.

And so, and that's what I mean by case-by-case basis. It -- sometimes it just depends on the information input into the incident case as a historical record.

Q. So you mentioned inspected vessels, and for the benefit of the public, these would be towing vessels, large ocean-going ships, cruise ships, tank ships, water taxis that move passengers in a harbor such as Baltimore harbor. Could you tell me why the Coast Guard doesn't inspect commercial fishing vessels?

A. We act solely on our statutory authority, and that does not permit us to raise the level of inspections to that of other industry vessels. So I think my answer to that is we just have to interpret the statutory authorities that are given us to enforce. And that influences, you know, the requirements and applicabilities that we impose during our dockside exams. And

that's exactly why we don't call them dockside inspections; there is a definitive line between exams and inspections.

Q. So last year at the jetties (indiscernible) in Galveston, a shrimp boat collided with a chemical tanker and two of the crew on the fishing vessel were killed, and the port was virtually closed for a period of time during the response. Does the Coast Guard examine the risk of the operation of commercial fishing vessels from the standpoint of the competency of the crew and the medical conditions to determine whether or not they should be inspected?

A. I think with regard to that question, we -- each and every time there's an incident or an investigation and/or a result of an investigation, we look thoroughly at causal factors and apply that information from the cause of an incident and the contributing factors, and then we make a decision, and those decisions may influence whether we influence certain initiatives that may lead to things like regulation or a proposed regulation.

So I would say we have to analyze, you know, the occurrence, what was, again, going back to that coined word, causal factor, objective evidence. And then is there a trend and is there a need to impact or change a certain regulation. I can't say that one incident would impact that. But, again, the information would be weighed amongst other decisions.

Q. Based on those casualty reports, does it appear there is a need to shift to inspecting commercial fishing vessels in the same way that we, in the same way that we inspect other commercial

vessels?
A. I don't think I can make that judgment right here and now. I wouldn't feel comfortable making a definitive call on that. We would really have to lay out -- and I'm -- and the case that you're talking about, I would have to thoroughly look at the recommendations and all the details and then -- and I think before we, at Coast Guard headquarters, make a firm decision on a recommendation or many recommendations that may be a trend, we really have to take a careful look at it along with other offices and divisions and get a collective response so we're making the appropriate response. And so right now, I hesitate to comment on that.
Q. So within the fishing safety program, is there a strategic plan or something similar to that, you could call it a roadmap for plans the Coast Guard has for the future for the commercial fishing safety industry?
A. Yes. We have a, we have an active strategic plan that we update monthly out of the Office of Commercial Vessel Compliance and the different divisions. We have our initiatives, and just -- and I'll just pick on a couple, for example. Part of our long-range strategic plan, that includes our communication plan initiatives, our outreach and our conversations with District 4 measures and OCMIs, our initiatives with the at-risk fishing vessel populations, our training, auxiliaries, even looking at our plusing-up and manning with our own examiner populations, so --

and whether there is a need with certain topics to generate policy and guidance.

And, for example, we will routinely review our policy NAVICs and guidance and determine whether -- and our MOAs and MOUs with other agencies, and we will review these documents to see if there is room for improvement. And so I think our long-range initiatives and strategic plan is active. We review them as an office on an annual basis and on a monthly basis on lower levels.

Q. Does that plan include anything related to developing an inspection plan or campaign for these under 200-ton commercial fishing vessels that doesn't cover what's already in existence? For example, the material integrity of the hull. We've heard the *Scandies Rose* had some issues with the forward starboard chute that was cropped out due to porous welds. That type of inspection campaign, are there any plans for that?

A. We did not, we did not have a line item to move uninspected fishing industry vessels to inspected fishing industry vessels. And going back to my previous comment, I think when we, when we review our statutory requirement guidelines, our current policies, our NAVICs, and trends, our live report of investigation results collectively, and we see patterns and indicators that may point us to consider going down certain roads of tighter regulation or just improving certain regulation that -- then we pursue those initiatives. But to have a blanket line item to transition from uninspected to inspected, no, we currently do not have that.

Q. So the Authorization Acts in your presentation, one of them talked about training, and you had talked about stability, training, and so forth, but whether the Authorization Acts discussed some form of certification for competency at some level for commercial fishermen. And I know that there are a lot of states in the United States where, to operate a vessel, recreational vessel, you have to have some kind of card that says you've taken a course or you're competent to operate the vessel. Could you talk to us about the plans to establish some type of competency for the people that are operating those vessels, the commercial fishing vessel fleet?

A. Well, the -- currently, as you may know or may not know, vessels -- the applicability of license mariners, chief engineers, masters, mates, assistant engineers and -- I believe it's in 46 C.F.R. Part 15 that outlines the requirement for certain mariners to have certain credentials. For example, a chief engineer credential. Within that, there are very layered competency levels and what is required of those vessels, again, over 200 gross tons. And I know you're focusing on under 200 gross ton populations, so being that there's a lack of regulatory guidance on certain populations below 200 gross tons, what -- the gap is being filled currently by certain accepted courses, outreach and certain requirements that are in play with Part 28, such as mandated monthly drills by a competent drill conductor.

Right now, we -- you know, our statutory requirements and

regulatory requirements have us in that position where we cannot mandate certain credentialing requirements. Could that change in the future? Possibly. I think, you know, I'm hesitant to say either way because, again, going back to analyzing the need and across the board needs for vessels under 200 gross tons, we would have to look at that in further detail before we would have to have a strict target initiative to say we're going to start mandating training, because right now, we can't on certain levels.

Q. So the Authorization Act, would that be a statutory requirement?

A. It would, yes.

Q. And did it mandate some form of certification? I heard that you mentioned the gaps and we are filling the gaps. But that then --

A. Yes, yes.

Q. Okay. So did it mandate actually producing some kind of documentation for the mariner that they were competent to operate the fishing vessels?

A. Yes. There was certain -- there were certain -- not there were. There is statutory language stemming from the 2010, '12 Auth Acts, and that was part of -- or is part of the reg project that we talked about that was -- is well detailed and that docket that was in the final rule in 2016 -- I'm scrolling back. But those initiatives were packaged in that Notice of Proposed Rulemaking project that we talked about a little bit earlier this

morning. That has not come to fruition since the rule has not become final and it still is in abatement, as reflected on that unified agenda.

But to add -- to respond to your question, yes, that -- it addressed -- or it does address training. But until certain things make it to reg, there may be certain elements of that, that may not be self-implementing or self-enacting.

Q. So I want to move back to something you spoke about in the opening presentation, and that's the role of a third-party organizations. Could you elaborate a little bit on that? You mentioned there were a number of third-party organizations. Can you give me some examples of who they are? Does the American Bureau of Standard -- American Bureau of Shipping, are they a recognized third party for fishing vessel operations?

A. Yes. ABS, American Bureau of Shipping, they are a recognized TPO. We actually have eight right now, and I think allude to a little while ago that we just received a new one this past week which we're really happy about. But basically we have -- as is outlined in Part 28, 46 C.F.R. Part 28, we have two various groups, groupings of third-party organizations that are permitted to do dockside exams on behalf of the Coast Guard.

We start off with accepted organizations, which vets in 46 C.F.R. Part 28-73, I believe, and these -- and we are -- there we see Charles Taylor Marine; National Association of Marine Surveys, or NAMS; we have NavTech; we have the Society of Accredited Marine

Surveyors, or SAMS; and we have Alaska Surveyor Associates, or ASA. So we have one, two, three, four, five. We have five accepted organizations. And to be an accepted organization, you have to have a code of ethics, you would have to have surveyors familiar with fishing industry vessels and their makeup, and they have to maintain rosters of their surveyors.

And we do periodic audits and checks and oversight visits of these organizations, to include similarly qualified organizations, which are the next tier of TPOs. And the similarly qualified organizations, that's in Part 28.76, and that's where we have classification societies such as (indiscernible) Bureau of Shipping, ARENA. Yeah, those are, those are classification societies.

And so with the grouping of all eight, they -- all eight are empowered to do dockside exams on behalf of the U.S. Coast Guard, and we issue out of my office serially numbered dockside exam stickers, and so we keep track of that on every sticker that they issue. And they also make reports to district coordinators and keep transparency of the exams they're doing with the districts and applicable OCMIs, or the applicable Coast Guard units. So that's the quick snapshot.

Q. Does the Coast Guard audit the quality of their work?

A. We do. We have periodic oversight visits. Right now my office does -- we do visits every two years. Now the district coordinators within each district and the, and the field units,

sectors, they're encouraged to invite TPOs to their training on a periodic basis. We leave that up to their discretion.

And so, for example, I'll just give you an example. In -- I attended a meeting, actually it was a couple of years ago now since the COVID pandemic slowed things down, but in -- normally this TPO, or third party meeting, it coincides with the Fish Expo in the Pacific Northwest every year in Seattle. And I attended one of those, and it was a very good discussion. But this is not limited to face to face.

But to answer your first question, we do oversight visits. We precursor that visit with a checklist that third party organization has, and they'll fill out that checklist, and then we will go over the items on that checklist with our visit, and it could be virtual or face to face to make sure that they are keeping up to speed with their duties and responsibilities as a third-party organization. And again, at minimal, that's two years.

Q. So in general, if I'm a vessel operator and I made use of a third-party organization, do I pay for that service?

A. You may. More than likely, you probably do.

Q. So I want to go back to the slide that -- and you don't have to pull it up, Lieutenant, but 5587, which was a Coast Guard form that talked about safety inspections. On that form, in engineering, it talked about bilge alarms, flame arrestors, ventilation and the marine sanitation device. Who would be

responsible for inspecting or making sure the engines operate properly on a commercial fishing vessel?

A. Well, some requirements on an uninspected commercial fishing industry vessel do not require certain oversight. And what I mean by that, inspected type oversight like -- I'll just give you an example, and hopefully I'm on target with what you're asking. But certain inspected vessels, there may be a requirement for engine over speed trips and certain insulation requirements of a main diesel engine. And that may, that may satisfy certain standards.

With a commercial fishing industry vessel, that may not be required, but there may be a requirement -- if there's an installation of a fire suppression system or certain alarms that are connected with the fire suppression system, that may -- there may be a requirement that, that has to be installed by a professional engineer, while the examiner or the TPO or the -- whoever's conducting that exam may verify that, that exam or check took place. Like, for example, again, servicing of firefighting equipment. And so there may not be a requirement for engines to be installed by -- from an -- or oversaw by inspected source, per se.

Q. So none of those initiatives would apply to the *Scandies Rose*, correct? In other words, the fact that the engine operates properly?

A. There -- I do not believe that there is a line item that would impact the *Scandies Rose*. I would look -- have to look at

the particulars, but I think knowing what I know now, I think as an uninspected fishing vessel, that likely may not apply. I would have to look at it in detail.

Q. So you mentioned the National Commercial Fishing Safety Advisory Committee. And it has a new name. It's been rebranded, but it's basically the same committee.

A. Yep.

Q. So you mentioned that the insurance industry participates. Why would that be?

A. This was -- the makeup of the Fishing Safety Advisory Committee, again, is a Congressional mandate. And within that Congressional mandate, the -- and I don't want to speculate, but I guess I have to speculate because I didn't write the law. But they wanted a reflection and a diverse makeup of the commercial fishing industry and stakeholders within that industry. And so that may -- not may involve, but it does involve various representatives: fishermen, underwriters, naval architects, et cetera.

So I think the -- as a primary influence on the industry, and they are probably identified as a primary stakeholder, and were so by this initial Congressional mandate, so they were inserted as a source that's going to be part of that committee. And so the why, I couldn't speculate on the why. But I think it's basically to give a snapshot of the overall makeup of the industry and stakeholders.

Q. So prior to the accident which occurred in late 2019, how many times a year did that committee meet?
A. There is a requirement that the committee meets annually, once, at least once a year. And I believe new legislation, 2020 legislation is requiring twice a year now. Now, of course, you're asking back then, but to answer your question, once a year. And that doesn't say that we didn't meet more than once a year, but again, at minimal, a once a year meeting.
Q. So did they, did they meet more than that? I know the minimum is once a year.
A. Yeah. There've been on occasions where we've had official business, where we met once a year with the committee, and there's also been on occasions if we're not going to conduct official business, for example, it maybe a signing of or voting on a panel of officers for the ensuing year. That could be conducted as unofficial business. Or perhaps simply progress being made on a, on a tasking.

We've had, in the past, meeting on -- we had this man overboard task right now, currently, that is an official tasking but would have to be announced on the Federal Register and then would have to be conveyed during an official business oriented meeting, but in between that, we could have meetings that discuss progress on the tasking at hand. And so that would constitute official meetings that wouldn't have to be announced on the Federal Register. So it kind of depends on the caliber of the

meeting itself.
Q. So does the Coast Guard provide the resources to support this committee in terms of people and funding?
A. Yes, they do. If we're holding a virtual meeting, we facilitate and coordinate that, all the logistics and the setup and time and the venue, the -- and then, if we meet offsite -- for example, I think our OS meeting was out in Seattle -- we would -- we, the Coast Guard, would, again, rent a facility, the court recorder, and we would, we would take the minutes, all the media and coordinate the guest speakers, and we -- and even we'd fly in the committee members and reimburse them for their, for their, you know, travel expenses and so forth.
Q. So does the Coast Guard publish the minutes of the meeting that contain the content of discussion so that the public can see the outcomes of these meetings?
A. Yes. If you go to that -- in one of my slides, the DCO official website, there's a dropdown tab, and one of those tabs -- actually, there's two tabs dedicated to the advisory committee, and you can look back the last ten years, or we have all the archives listed on a yearly basis of meeting minutes on announcements that were put forth on the Federal Register. We have a running roster of committee recommendations and all conversations.
So we're very transparent on that. We try our best to keep that maintained as best as we can. And I believe also on that

site is a link to the FAC, the Federal Advisory Committee link that we can also launch into advisory committee particulars. And last but not least, we also list the bylaws and the members that are sitting currently on that committee. So we have a dedicated place in our outwardly facing DCO safety site.

Q. So would it be fair to say that an investigation such as this or any of the high-profile investigations could make a recommendation that the National Commercial Fish Safety Advisory Council examined the accident and make recommendations to the Coast Guard? Would that be fair to say?

A. I think so. I think it's -- the advisory committee has been used as a variable asset in the past. And I think using the proper channels, it -- I would say it would be appropriate to get sound, thorough recommendations from the advisory committee. And, again, that would offer solid weight on our decision making. I think I talked about in the past, you know, sometimes we just can't go on one incident necessarily, but we need data and information and comment, and sometimes that comment comes from stakeholders. And anything coming from the advisory committee, we -- if it's in the form of a formalized recommendation, we welcome.

Q. So does the -- this is my final question about the safety advisory committee, but are there adequate resources in place in terms of industry people so that a subcommittee could be formed to examined an accident, previous accident and so forth? Do you have enough resources in terms of the industry personnel to make that

task commented recommendations delivered to the Coast Guard?
A. Yeah. So if a, if a recommendation came to the Coast Guard and, hypothetically, I'm stating that we recommend that the advisory committee look into this topic, whatever that topic is, and then the Coast Guard says yes, we concur, and then -- and if the -- and what generally would happen is the Coast Guard would -- our Designated Federal Officer linked to the appropriate Federal Advisory Committee would assign a task to that advisory committee.

Once the advisory committee accepts that task, say, yes, we concur, they think it's a good initiative, we accept. And then they pursue initiatives to assign a -- first it would have to be accepted by the committee, of course, and then the committee would assign, more than likely, a subcommittee within that committee. That subcommittee would traditionally involve key persons within the advisory committee, and they would have the latitude to reach out to subject matter experts within the industry.

So, for example, if there was someone on the committee that -- or if the committee was lacking subject matter expertise on a specific topic, they would have latitude to cast the net out to the appropriate subject matter expert and get that technical advice or analysis to allow them to make a decision and a recommendation to the Coast Guard. And then the Coast Guard would receive that and make a call and weigh pros and cons whether they want to accept that recommendation or not. Does that make sense?
Q. Yes, sir.

A. Okay.
Q. So my final topic is, of course, recommendations following an accident that's being investigated by the Coast Guard, a significant accident for commercial fishing vessels, and I want to talk a little bit about the *Destination*, which sank in 2017. And there was a Marine Board similar to this that was stood up, and it made a host of recommendations to the Commandant of the Coast Guard.

And Lieutenant McPhillips, if you'll pull up Exhibit 128. And what we've done is taken out the bulk of the report and just gone to the recommendations. They come to us in a final action memo, which is the Commandant's view of the report and whether or not they concur or don't concur or partially concur with the regulations. Would you scroll down, Lieutenant past the coverage page and hold it right there for just a minute? So this will be representative of the comments on the report, and if you'll move down, stay there just for a minute. And move to the next page, please, sir.

So in this case, recommendation number 1, the comment on it concurred with the recommendation. I just want to ask you generally, without going into the specifics, what role does your office play when a recommendation is delivered as a result of a report similar to this?
A. Traditionally, what happens -- and I'm familiar with this report. And when, first and foremost, there are -- there may be

several stakeholders with each individual recommendation. And so we normally will have -- if a recommendation is placed on the district, for example, there's a good chance that we will have that discussion or have discussions with district. Now, we don't sway the district decision on recommendations, but it's a way of being transparent that we're -- because we're obviously in tune with certain actions being taken which will influence the recommendation. And sometimes we have certain knowledge of initiates taking place.

And so I would say that regardless, if it's placed on Commandant or, of course, headquarters or the districts, there's a -- there's quite a few assets that we use prior to responding. You know, we have to weigh the decision. And sometimes we're talking, taking legal counsel, we're talking to different offices within regulations or nav or the engineering departments of the Marine Safety Centers.

And so we have to soak all that in and see how things may be applicable or relevant to a certain situation and then how we can appropriately respond or how the -- we can recommend that the Commandant appropriately respond, because coming out of our office, it's a recommendation. And again, as it goes up to the -- through leadership, they obviously have to concur with that point of view.

Q. So regarding stability, the recommendations made in that same report, did your office have any input on the stability

recommendations?
A. I believe we had to -- we had a review on all the Commandant directed initiatives, on those *Destination* recommendations. So yes, we did a -- we do an initial review. And then as appropriate we made further requests for comments from various offices. So yes, to answer your question, we had visibility of that.
Q. So in that investigation and in this, one of our colleagues from the National Transportation Safety Board may make recommendations. What does your office do when a report includes recommendations from a separate report independently compiled by the National Transportation Safety Board in terms of how do you handle the National Transportation Safety Board recommendations directed at the Coast Guard that relate to fishing vessel safety?
A. I think we -- with any recommendation from various agencies, we handle the -- we pursue our response accordingly. We get the recommendation. And if it's from NTSB or GAO or another agency, we -- I think we handle it the same way. We look at the applicability and we look at current statutory requirements. For example, current regulation, current guidance, current outreach initiatives. And then we see how that may be applicable to the -- and relevant to the requests. And then we, and then we form our position, whether we say, yes, we concur and we're going to do this, or we do not concur and this is why.
And so, without making a decision on hypotheticals, of course, I think, in general, that's our course of action. We take

what is handed to us by way of a recommendation -- again, it could be from other agencies -- and we weigh the content and the applicability and the relevance, and then we push forward with our position.

Q. So if one of these reports recommends the creation of legislation and the Commandant concurs and they get input from you, can you give us just an idea of how long it would take just in general terms for that recommendation to become an actual law? Is it a short time? Is it many years?

A. You know, first and foremost, I think the most appropriate office to respond to that would be the office of CMT regs, regulations, and so my opinion is just basic, and so I wouldn't want to be quoted on it, but I -- because, again, they're the subject matter experts in that field. However, I would say, in general, if we have a recommendation and it's been deemed legitimate for a potential reg project that then we go back to my original slides earlier today and there's a very definitive structure to the reg process as we know.

And so that could be -- it could take months to a year to beyond that. And the reason I say that is, if warranted by a situation, we may need economic studies. We may need analysis. We may need oversight and review by different offices. Or maybe even agencies. And so what I would say is the dynamics and details and the complexity of the request may -- it may take some time to move forward to a reg project. But by all means, we do

have an office within Coast Guard headquarters that could probably give you a more definitive answer to that.

Q. So could you -- and I know this might not have been contained in the topics, but could you think of any accident involving a commercial fishing vessel that -- any specific accident that resulted in a piece of legislation that I could go to a regulation or a law and find it if I looked it up?

A. A piece of legislation connected to an actual incident?

Q. Correct.

A. Yeah. I think to accurately answer that, I really would have to look at -- I would have to go back, look back at documents. I couldn't answer that clearly here now comfortably. Now, I could say that, for example, with the -- and I don't want to jump off topic because I know we're talking fishing vessels, but with the towing industry, there were several pointed major marine casualties that directly resulted into the initiatives that resulted in Subchapter M, for example. As a result to a specific mishap or major marine casualty on a specific fishing vessel in -- fishing industry vessel, I would -- I couldn't answer that right here and now today.

Q. So were there any during your tenure as the division chief?

A. Not in the three years because we haven't pushed out -- we haven't had, in the last three years, a reg project that has come to fruition resulting from fishing vessel major marine casualties. And as I stated before, the only reg project that is sitting on

there on the end, final agenda right now, has been sitting there prior to my tenure as a division chief.
Q. And I just have two follow-ups. The major marine casualty, when we looked at that chart showing the trend of fishing vessel fatalities and loss of vessels and it was showing a downward trend, that included all accidents, correct? Or was it just major marine casualties involving commercial fishing vessels?
A. It is my understanding that those numbers -- and I would have to look at the slide to see if it differentiates between major marine casualties or just general sinkings. I think, I think the slide, I would have to look at the context and footnotes. And being that, that was put together by the Office of Investigations, I may have to ask, to ask that office the applicability, if this was just major marine casualties or if it was every casualty there of the last 30 years. So that being said -- and if we could maybe increase that, if it's possible.
Q. So, for the benefit of the record, we have just pulled up Coast Guard Exhibit 069, which is the chart that we were just speaking about.
A. And I'm just scanning as we're -- bear with me, please. Okay. So being that -- and as I'm looking at this footnotes, being that these statistics reflect loss of life, loss of fishing vessels, and, again, fatalities, I am presuming that these statistics involve major marine casualties. But I think knowing what I'm looking at right here, right now, if there were any

non-major marine casualties, I would have to put that request through IMV that crafted this data and clarify with them. But I'm presuming this relates to major marine casualties.

Q. Thank you, sir. Lieutenant, you can pull that down. And just my final question, and you kind of skipped over it in your presentation. The sea grant program is a program, as I understand it, where the Coast Guard funds safety initiatives. Am I correct in that assertion?

A. Well, the sea -- okay, so the -- well, there's a couple of grant initiatives in boating safety -- well, there's two, there's two, I'll call them, buckets again that -- when we talk to grants initiatives. And we have the Office of Boating Safety, which they manage certain sea grants and certain reoccurring long range grants for boating safety and various entities, and I can't really speak to their grant initiatives because I'm not involved with it. The grant -- the fishing vessel safety and fishing vessel training grant initiative that my office is involved with is a, is a statutory directed grants project that has been going on since -- well, it was launched by the Coast Guard Authorization Act of '18.

And then there are appropriated funds to the tune of $6 million annually for several years. And that $6 million has to be -- there's a window that those -- that $6 million has to be used by the award recipients. The award recipients are managed by NIOSH, and so the Coast Guard, my division partners with NIOSH with the, with the managing, and we work as subject matter experts

for the Coast Guard side of the house on managing these grants. We meet on a monthly to bimonthly basis, and so we just met for Calendar Year 2021, and we do meet on occasions from previous calendar years to monitor how those grants are being pushed forward by the recipients, et cetera. So, again, we're not connected to sea grants. We're the Congressionally mandated appropriations.

Q. So, on Thursday, we'll hear from the folks at the Alaskan Marine Education Association, and we'll also hear from the North Pacific Vessel Owners Association. The reason I asked that question is on their very, very good videos for the AMSEA folks, they say that it was funded through sea grant. So it's a different bucket of money as you explained. Is that correct?

A. Correct. Correct. Yeah.

Q. So I thank you very much for your testimony.

MR. FAWCETT: That completes my questions, Captain.

CAPT CALLAGHAN: Thank you, Keith, and thank you, Mr. Myers. Mr. Myers, we've been going for -- I guess it's been about an hour and 15 straight now. If you're okay, we'd like to take a quick five-minute recess, and then I'm going to pass it over to my colleagues at the National Transportation Safety Board once we return. Is that okay with you?

THE WITNESS: Yes, sir. Thank you.

CAPT CALLAGHAN: All right. So it's now 1101. We'll take a five-minute recess and return at 1106.

(Off the record at 11:01 a.m.)

(On the record at 11:07 a.m.)

CAPT CALLAGHAN: The time is now 1107. This hearing is now back in session.

Okay, Mr. Myers, we're going to, as I mentioned before, and we're going to go over to our -- my colleague here at the National Transportation Safety Board.

Mr. Barnum?

MR. BARNUM: Thank you, Captain.

BY MR. BARNUM:

Q. And, Mr. Myers, thank you for being here today and shepherding us through this legislative and regulatory jungle here. I appreciate it. I know it's been helpful for me, so thank you.

A. Sure.

Q. Just have two lines of questioning. You did mention both of them earlier in your presentation, which was very informative, but I just needed some clarification. So first one would be the compliance programs that you have there at the Coast Guard. We were talking about the Alternate Safety Compliance Program, but I'm curious, before we -- I go into that, about the Alternate Compliance Safety Agreement. I believe that was a -- that's a program that's in place for the longline and trawl fish processor fleet. Could you talk a little bit of that?

A. The -- yes, the -- and the acronym being ACSA.

Q. Right.

A. And that -- there are a fleet of older commercial fishing vessels that -- and I wish I had numbers; I didn't prepare to provide you numbers, but I can at a later time if you want. But in 2006, there were -- the longline fish processing fleets or certain population of aged vessels that were over 25 years old, many of them, that were not built to class or -- and did not have load lines. They would (audio skip) able to operate due to the mere fact that they did not have load lines and class documents on many of the vessels.

So the ACSA program came to fruition, and it was an agreement between a certain population of these ACSA fleet vessels and the Coast Guard that inspections would ensue on a periodic basis to look at vessel systems. And it's quite a high bar. Again, this started in 2006; I think there's roughly 32 or 34 vessels currently in the program, because it started with a -- not a substantial fleet, but in the sixties, 67, and then now, ten years or plus later, we're down to about 30 and some change. But this is quite a high bar that these vessels have to meet.

You know, we've been talking quite a bit all morning on examinations. Well, this is the one small population of vessels that are inspected, in fact. So we call them the ACSA fleet, we call them. They are, in fact, inspected because of the high caliber of systems that they have to be reviewed by a marine inspector. And so they have to meet certain subchapters of the

Code of Federal Regulations that currently inspected vessels have to meet. And I'll just give you one example is fixed firefighting systems. On inspected -- certain inspected vessels, you have to meet Part 76, which gets -- factors in the pressure vessel and the high-pressure CO2s, and the, and the lines. Well, these ACSA fleet vessels have to meet the same standards. And so that's a quick snapshot of ACSA.

I believe, as I said, it's about 30, 34 vessels right now, but right now, we have inspectors in both District 17, which is Alaska, and District 13, which is running out of the Seattle area, that monitor and oversees this ACSA fleet, and we have a full-time billeted person in D-13 that also manages this program.

Q. Understood. Thank you for that. So would I be correct in assuming -- in saying that, you know, the ACSA program is a way to bring these 30 to 34 vessels held into a higher standard because they're not -- they weren't constructed to a standard at the time when they were made?

A. Exactly. Yes, sir.

Q. Okay.

A. Yeah, spot on. And it's known that a lot -- just the lack of documentation when these vessels were constructed, a class society may not want to get involved with them, and this was a way of keeping a high bar that industry embraces, and they said, okay, this is a, this is a way we're -- you know, we won't get shutdown for not being in class, but we will have a high bar of maintaining

all of the applicable systems. And we, the Coast Guard, have been satisfied with that.

Q. Now, is that the same objective for the Alternate Safety Compliance Program, for the vessels 50 feet and more operating outside the boundary line, 25 years and older? Is it the same, you know --

A. I can't say, I can't say that, that was the same objective initially. It could have been. But I was not drawn into any of those conversations. So I can't say that, that was the initiative when Congress put that into statute. I don't know. I could speculate, but officially, I don't know.

Q. Oh, please do. If we're talking about the 2010 Authorization Act and how there was a -- I guess they came out with MSIB, and also, on Exhibit -- 14 December, basically summarizing in the 2010, '12 Authorization Act, one being the mandatory dockside safety exams, but then also being the Alternate Safety Compliance Program, so -- for vessels of 50 feet or more, 25 years or older and operate outside of the boundary line. So approximately how many vessels would that affect -- if that did come into effect, understanding that it did not, but how many vessels are out there that this would have affected?

A. Let's see -- and I'm trying to see if I have any, because I thought, I thought on one of my slides --

Q. I know you said there was 4,800 high-risk vessels, but that stat didn't include -- it wasn't specific to vessels that were 25

years and older. That was just vessels specific to built before 7/1/13, 50 feet and greater and operate outside the boundary, three miles.

A. Yes. And I don't have numbers in front of me, of course. I could get numbers, by all means. But I would say -- and, you know, an unofficial guesstimate just to give you a snapshot, vessels that are over 50 feet operating beyond the boundary line and maybe 25 years of age and older, I would comfortably say we could be talking about 7,000 to 8,000 vessels. Now, that being said, if that is a number that you'd like to make impact any of your decisions during this investigation, I'd be happy to give you a more firmer number than that, because that's just a guesstimate. But I can get closer to the mark in a short period of time.

Q. Yeah. I was just curious on how many -- this proposed Alternate Safety Compliance Program, I'm curious how many vessels would have been affected if that were to come into effect.

A Yeah. And I think it was, at the time -- and the reason, the reason I'm hesitant in giving a solid number, and I say ballpark about 8,000, is with our numbers, we -- from year-to-year active commercial fishing, whether the vessel's laid up or not, it changes dramatically. And so back in 2010, when we had a snapshot population, that was back in 2010. Now, we're -- now, we fast forward 11 years later, and so then you have to ask, how many of those older vessels at the time are no longer in service, or are they just pier side? Are they not active for whatever reason but

they just haven't been taken out of the system? So I would say, if you'd like, I can give you a follow-up on that.

Q. Yeah. I'd appreciate that. Just to clarify, you mentioned 4,800 high-risk vessels. So you're saying there's more. I was under the understanding this Alternate Safety Compliance Program was directed at high-risk vessels, but basically you're saying there's more -- potentially more vessels, then, are actually classified as high-risk vessels?

A. Yes. You know, with this high-risk -- and I'd like to just clarify, the Alternate Safety Compliance Program and the at-risk program are two separate programs, two separate focuses, but with like populations. And so we can make a comparison that way. But that being said, when we talked about the 4,800 vessels that are still out there, you know, that -- those are known vessels with either active dockside exams, or not.

And that being said, when we go to our MISLE database or our database that we track these vessels, there's a lot of vessels out there that, again, are laid up and haven't been taken out of the system. So it's a, it's a challenging process of sending examiners out there to identify certain vessels and then to take them out of the, out of the system. It is warranted. So we are comfortable with the at-risk population saying, yeah, we've got about -- actively, about 5,000.

Q. Okay. Thank you.

A. Yes, sir.

Q. Lieutenant McPhillips, can you please bring up Exhibit 47, Page 3? Mr. Myers, this is, this is the voluntary safety initiative and good marine practices for commercial fishing industry vessels that you touched base on earlier. And so I just, I just need some clarification here for the benefit of me and possibly others, I'm not sure.

But basically, this is an explanation to why the Alternate Safety Compliance Program was ultimately suspended, and I guess in -- you had mentioned earlier -- so a second paragraph, the second sentence, I'll read: However, without existing requirements for these older vessels already in place in regulations, an alternative to the standards could not be developed.

Now, the way I read that, it almost sounds like a bit of the chicken and the egg. You know, how can you, how can you make an alternative to something that isn't existing in the first place? Is that, is that -- am I reading that correctly or can you better explain it to me in plain words?

A. Well, I think you explained it how I would have explained it. It's, it's -- in so many words, again, you know, getting the juice of this language, there was, there was a -- there is and was a lack of standards for these older vessels to meet. So we were asking for an Alternate Compliance Standard that we would have to mirror up and compare that standard to. And so the Coast Guard stance, at the time back in 2017, simply was saying, listen, what standard are we, are we talking about?

And it was the cart before the horse that there -- if it was saying compared to ABS rules, for example, okay, that's the standard. But they didn't say that. And so the Alternate Compliance Standard was not very clear and did not exist. And that's why they backpedaled on that.

Q. Yet, if the Coast Guard is able to make it work, if you will, for the longline trawl fleet for the authentic compliance safety agreement?

A. Correct. Correct. And back when they did that, yes, they -- a meeting of the minds came together, and they did identify a high standard. And I was, I was not in either conversation, but what this, what this group of vessels, I could not tell you whether that was a balance or not with an action forward.

Q. Okay.

A. So I'm hesitant to comment, too, on that thought, because I guess when we're talking the ACSA fleet, yes, that was a standard and it was detailed out, and I could see with the Alternate Safety Compliance Standard, there would need to be further looking into before a model standard was even looked at, because right now, in our view, the standard just does not exist.

Q. But -- okay, so staying with that, so -- but it's not totally off the table. My understanding, the Alternate Safety Compliance Program for these vessels such as the *Scandies Rose* is still on the table, and in the last -- or in the 2016 Authorization Act, it basically gives ten more years to -- at which point a proposal

could potentially be made to the Secretary. Is that correct?
A. Yes. Yes. And so, and so now, so now the meter's ticking because -- you know, so ten years after that, 2016, so we're talking 2026, which we're getting kind of close. And that's where our office has started an initiative, and, again, this initiative is on this content of surveys and construction standards that came about in 2016. And now we are, we are kick starting initiatives to start to sample those vessel populations to see if this standard, this alternative compliance standard is working.

And so, and so what does that mean? That means that this standard -- instead of being class, this Alternate Compliance Standard is being conducted on the oversight of third-party organizations. And they're doing periodic, in water, in/out of water surveys, et cetera. And so --
Q. So sorry to interrupt you there, sir, Mr. Myers, but you're looking at modern vessels. You're doing this comparison on vessels built after 2013.
A. Yeah.
Q. Not -- but you're not looking at these vessels that the program would actually apply to.
A. Yes. Correct. And so since there is, since there is, you know, the -- well --
Q. So you're trying to, you're trying to see if the program would be feasible for a group of vessels, but you're not actually looking at that group of vessels to see if it would be feasible.

A. Well, and I guess, backing up, you're right. That vessel population that, that Auth Act is applicable to is for -- yes, it's for new vessels and moving forward.

Q. Okay. All right. So we found out, in 2016, that, well, we couldn't have the cart before the horse, so in 2026, when that ten years has expired, would that be different? You're still not going to have any regulations in place, so potentially, could you have the same explanation why there's no Alternate Compliance Program in place because there still won't be any regulations at that point?

A. We'd be forced to open those discussions. I would say the scenario that you laid out is -- yes, it's -- this way forward is addressing new constructions, and right now, since we pulled back on the Alternate Safety Compliance because there's no equivalency to base it on, we came out with that, the safety initiatives and good practices. Obviously, they're voluntary, but we did partner with industry to put them together.

Q. Yes, sir. Okay. All right. Thank you. Moving on to my last on this line here, sir, a question you brought up in your slides, which were very good, but a little more explanation. Load line, could you briefly describe load line of a commercial fishing vessels and kind of how it applies?

A. Commercial fishing industry vessels that -- up until 1 July of '13, commercial fishing industry vessels that are 79 feet -- well, first, let me back up. Up until 1 July of '13, there was no

requirement for a fishing vessel to be load line. After 1 July of '13, there's a requirement for fishing vessels that are over 79 feet to be load line.

Q. And let's, you know, bring up the Exhibit 106, please, Lieutenant McPhillips? It might help us a little bit. So basically a load line is an additional measure for a vessel and basically kicks in some more stringent inspections. Is that correct? If a vessel is required to carry a load line.

A. Yes, it's -- the issue of a load line is demonstrating the safe loaded condition of that vessel. And it factors in several areas: the watertight envelope of that vessel, it could factor in through hull fittings, watertight bulkheads --

Q. Okay.

A. -- various penetrations, scuppers, which scuppers being it allows the exit of excess water on the main deck, for example. A load line has rail height requirements, et cetera.

Q. Okay.

A. And I believe that may have been on page --

Q. Sixteen?

A. -- 16, yeah. Yeah. And so -- yeah?

Q. Thank you. Sorry. Basically my question here is, you did a very good job listing it here, but, you know, obviously *Scandies Rose* didn't have a load line. She was a fishing vessel, but she also tendered in the summer for salmon. So my question is, can a fishing vessel be a fishing vessel and a tender vessel? Can it be

both?
A. Well, and so fishing vessels --
Q. In the eyes of regulations -- sorry. In the eyes of regulations, sorry.
A. Oh, in the eyes of the -- okay, so -- okay. That clarifies. So, in the eyes of the regulations, those are two vessel types. When a, when a fishing vessel chooses to tender or change vessel operations seasonally, the regulations do not differentiate between the two. You are either a fishing vessel or you're a fish tender vessel. And so that is -- but now, that's per regulation. You know, there's a definitive line.

In reality, there are fishing vessels that are also fish tender vessel, and in alignment with the regulations, they must be aware or they should be aware of the difference, because once they change that service, they're changing vessel type, and it's very straightforward by definition, but -- because I know, and I think slide 15, we gave a clear depiction of the definition, and there's a very distinct difference between the two.
Q. And my understanding that, you know, it wasn't uncommon for these -- a lot of these vessels such as the *Scandies Rose* to pull work in the summer tendering. It was a common practice, in fact. So, you know, after what you just said and looking at your slide here, you know, how is the Coast Guard reaching out to these vessels and telling -- informing them their interpretation of this regulation and the potential requirement for these vessels that

have to carry a load line?

A. We -- and first and foremost, with -- in looking at the *Scandies Rose*, when the vessel's critical profile is looked at, it reflects a commercial fishing industry vessel. We don't have anything that jumps out at us to say fish tendering. That being said, many vessels, I think, are out there and it may be, you know, they're picking up jobs here and there, and they don't see a big distinction between the two, which, again, there are.

And so, recently, the Coast Guard has identified that certain fish tender vessels do not comply with current load line requirements, and recently, the Coast Guard has identified these increased numbers of catcher vessels that are part-time tendering. And the concern being certain vessels, as stated, are not required to load line when fishing, and then when you take a job, now they're required load line by regulation, in a sense changing the type.

That being said, there are current initiatives underway to address determining load line applicability compliance with these fish tender populations. And so, again, with that being said, you know, you say, okay, what are those initiatives? Well, we have a PacArea initiative directed by the PacArea district commander, I believe it was 2019, that empowered a charter group to address this situation.

Again, we know there's an interpretation problem for -- and I'll try to clarify what that interpretation was. It's -- if

you're a full-time fishing vessel there, it's very clear that you're -- I mean, if you're a full-time tender vessel, you're a full-time tender vessel. But it has been interpreted by some industry vessels and some in the Coast Guard that, in the past, if you're part-time tendering, that doesn't necessarily make you a full-time tender. And that's where the confusion is because some vessels innocently said, hey, I'm just, I'm just doing this for a week, and then I'm going to, I'm going to continue fishing, you know, the rest of the season. And weren't seeing the connection to a certain regulation.

And so that being said, this all had to do with the definition of a part-time tender. And what has happened amongst further legal review, the Coast Guard determined that, you know, what -- load line requirements do not distinguish whether you're full-time tendering or not. You know, this is not an inspected -- by some inspected issue. It's are you required to have a load line or not?

And so, that said, the -- as I said, the district PacArea commander established a task force to analyze this problem, and the task force is charged to develop and implement recommendations to identify the fleet impact and conduct a risk assessment. So when I say a fleet impact, they're charged with identifying the population and then conducting a risk assessment to see whether -- or to identify the scope of the issue and then to engage with industry for comment and feedback to help align with the

decision-making process, and then to develop these recommendations to bring forth to the district commander and commandant to a resolution.

And so then you say, okay, Coast Guard, what have you been doing? Well, in 2019, when this, when this started by way of District 13, 17, and the district commander getting together, this task force team, which CVC-3 sits on for transparency, we got together, we met out in Seattle, and we put notes out to the industry -- and, again, I'm ballparking it, but I think we had 40 to 60 industry members at that meeting at the time. It was just before the Pacific Expo.

And then we had CG-ENG, which I think they'll be talking to you later on this week, and they detailed out to industry this predicament and this dilemma and the miscommunications, and we did a stability 101 with industry, and then we fielded different questions. And one of the takeaways from that meeting was, hey, let's do a survey of vessel populations -- which has been done; I think it was kind of a dual poll of the fishing industry that may be tendering in D-13 and D-17 -- and then we got those comments back, and those have been studied by the group.

And another initiative has been during every dockside exam, if you're in D-13 and D-17, there's a severity questionnaire that goes along saying, hey, if you, if you should have a -- if you think you need a -- if you're tendering, are you doing this, this, and this with regard to stability monitoring, safe loaded

condition recognition, maintaining your bulkheads, two hull fittings, are you going into dry dock? It's the whole pedigree.

And if it's identified that the vessel should be meeting fish tender vessel requirements, and maybe they're not, what is being done is that is reflected in the 5587 dockside exam comments. It's gone into MISLE. The owner/operator is made aware that hey, we've determined that you -- since you are fish tendering, certain applicable fish tender requirements may be applicable, but we are in a period of non-enforcement.

And with that posture, that is not a get out of jail free card, but it is the Coast Guard looking at this problem, because it's not practical to say we're just going to shut down industry. That is not the purpose. The purpose is identify that there's a problem, act on that problem. If there's a feasible resolution, we're going to route that up to leadership with comment from industry.

And we hope -- now, I will have to say that the COVID-19 pandemic has influenced the pace this has been moving. But again, we're very engaged on this. And the program is sitting with the panel of D-17 and D-13 in PacArea, and that's kind of a rough breakdown of what's going on with this initiative.

MR. BARNUM: Mr. Myers, great information. I do appreciate it. Thank you very much. That's all the questions I have.

THE WITNESS: Yes, sir.

CAPT CALLAGHAN: Thank you, Mr. Barnum.

Right now, we're going to go to our parties in interest. And, sir, I will start with legal counsel representing the two survivors.

Mr. Stacey?

MR. STACEY: Good morning, Captain Callaghan. Thank you.

And good morning to you Mr. Myers. Just a couple of very brief questions.

Lieutenant McPhillips, if you could please pull up Exhibit 106, Mr. Myers' presentation, and go to Page 18, please. Thank you, Lieutenant McPhillips.

BY MR. STACEY:

Q. I want to talk a little bit about this advisory committee, sir. So does advisory committee -- is this involved when the Secretary provides recommendations and analyses of the adequacy of the requirements to Congress?

A. Could you -- if you don't mind, could you rephrase or say it again? I'm -- yeah --

Q. Certainly. So I guess, Lieutenant McPhillips, if you wouldn't mind actually going up slide 12, please. Here we see in this regulation that the Secretary submits to Congress an analysis of the adequacy of the requirements. Does the advisory committee assist in that process?

A. The advisory committee may assist in that process. And since we are -- we're in the beginning stages, this analysis is going to be a several-year analysis, so it's not just going to be a quick

quarterly snapshot. This is going to be a long-range analysis. And we always -- when we look at these analyses and information we're drawing from that, we always reserve the right to decide whether the advisory committee would be a viable resource to comment.

And sometimes, and sometimes that could be before an analysis that we need subject matter expert feedback. Or it could be after an analysis, saying, hey, we got this information, advisory committee. Do you have anything to add? Do you have any comment, anything as an extra set of eyes since you represent industry?

And so I would say that, that is always a viable resource that we would use, you know, as tool to help us make a decision. But as of yet, we have not reached out to the National Fishing Safety Advisory Committee on this topic itself.

Q. Because I did notice, looking at the Federal Register, that 10 of the 18 seats are to be filled by those representing the commercial fishing industry. Other are naval architects, manufacturers, underwriters. Do you feel that those ten seats are able to properly represent the views of and the needs of fishermen (indiscernible) all throughout the country?

A. I do. And the reason, the reason I say that is when we, when we look at -- we constantly look at our advisory committee representation and, you know, in every situation, you can't, you can't check every box, obviously. However, when we look at the broad impact of our advisory committee, we don't want to have

everyone in the Pacific Northwest, for example. We want to be represented -- we want to see representation, if possible, in the Gulf, in the Northeast, down in Florida, et cetera, and the Pacific Northwest. Can we do that all the time? You know, sometimes we're restricted to the applicants of that committee. So yeah, maybe we can't hit the mark every time, but we're sensitive to that.

Q. Thank you very much. I encourage you, Mr. Myers, to continue taking their points very seriously, as I'm sure you do now. As the people on the ground, they have a very unique experience and point of view that I'm sure is very helpful to you, so I applaud you for that and encourage you to continue doing so.

MR. STACEY: Those are all the question that I have, Captain. Thank you.

THE WITNESS: Yes, sir. Thank you.

CAPT CALLAGHAN: Thank you, Mr. Stacey.

And I'll now go to counsel representing the vessel owners. Mr. Barcott?

MR. BARCOTT: Thank you, Captain. Well, let me get my video going here. There we go.

BY MR. BARCOTT:

Q. Mr. Myers, I'm Mike Barcott. I represent the *Scandies Rose*. Can you hear me all right?

A. I can. Thank you.

Q. Thank you for your information this morning. I have a couple

of questions for you. You made the statement, one sinking is taken very seriously, especially a sinking of the magnitude of the *Scandies Rose*, right?

A. Yes. And I believe that.

Q. Thank you. You also said, I think if I understood, there are 65,000 approximately commercial fishing vessels that are in their portfolio -- need to deal with 65,000 commercial fishing vessels. Is that right?

A. Correct.

Q. That's a big job. So there are, give or take, 60 vessels involved in Bering Sea crab industry, the industry that the *Scandies Rose* was involved with. Have you been following these hearings?

A. I have.

Q. Okay. Did you read about the expert witnesses who came forward last week, naval architects, and provided information that there may be serious flaws with the stability studies on crab boats as it relates to icing conditions?

A. I heard their testimony.

Q. Oh, good.

A. Not all, not all of them, but several.

Q. Oh, good. Good. I'm glad you did hear. So here's my question for you. If, at the conclusion of this hearing, the Board concludes that those naval architects were right -- in fact, the icing conditions for stabilities studies on crab vessels,

nobody has ever studied those; there is no data on that. And if the Board concludes it -- as written and applied, the Code regulations are useless, and if it goes one step further and concludes not only are they useless, but they're dangerous because they lead these operators into a false sense of security -- they believe they have good data and they don't -- are 60 boats enough to get the attention on the national scene, perhaps the safety advisory committee to take a serious look at studying the deficiencies in the regulations?

A. To respond to that, I -- first and foremost, as I've said in the past, we -- part of our, part of our review process to investigations to recommendations from the advisory committee, by multiple sources, we, the Coast Guard, and especially myself at program and other offices at headquarters, we receive the pertinent data that's laid in front of us. And if that is a detailed analysis from a report that conveys such and such, by all means, we weigh that recommendation and whether that information is legitimate, valid, impacting and is a viable solution to a problem.

But -- and I think, I think we have to be -- not careful, but I think we are -- we're prudent in our, in our steps to not to assume, because that would not be appropriate. And taking -- you know, every casualty, as we know, is tragic, and we -- and I think we all agree to that. And then, when we have a -- one thing we have to consider on a national program and regulations and a way

forward, we have to be very careful to not assume and not speculate and not let our emotions change our decision-making one way or another, because this is for a long-range decision. And then we have the analysis, the data, the interviews, as you said, perhaps recommendations from advisory committees, other subject matter experts, and we bring it all together and we say, hey, do we need change or don't we?

And so it would be -- it will be the cart before the horse if I were to say, yes, we need change right now. I would say, and I hope you would appreciate that I would say to you, that the Coast Guard is very interested in every resulting analysis and comment the of the Marine Board of Investigation or any investigation to say if we have any takeaway information that could help us make a good decision. And so is that fair?

Q. It is fair, and I can't tell you how -- in my perception, how seriously this Board takes this issue. And I wouldn't ask you to assume anything is correct. But coming back to my question, if you should get recommendations that the icing conditions related to stability studies on crab vessels deserves more study, but it only affects 60 vessels, is that a big enough mass to get a notice at least, let's look at this on the national level?

A. At the national level, we -- and I don't want to dance around the question, but at the national level, we look at the objective evidence put forth before us and the causal factors and the impact and the effect and a way forward. I would say, if we are doing

our job on any review of a causal factor or a recommendation, we take those numbers out of the equation. So if it's one or a million, if certain change is warranted, by all means, that's part of our decision-making process.

And that's why we bring in different offices and different subject matter experts. And so what I would say is, based on the objective evidence put forth in front of us, we hope to be able to make a very viable, straightforward decision. And not every decision is straightforward, but an appropriate decision, let me say.

Q. Correct. Thank you. That will be reassuring to the community in Alaska.

MR. BARCOTT: Thank you very much. Those are all the --

THE WITNESS: Sure.

MR. BARCOTT: Those are all the questions I have. Thank you, Captain.

CAPT CALLAGHAN: Thank you, Mr. Barcott.

Mr. Myers, I do have a follow-on question from Mr. Fawcett.

Mr. Fawcett?

BY MR. FAWCETT:

Q. Yes. Thanks again, Mr. Myers. Just a follow-up. In doing research for this investigation, I looked at a variety of sources, and one of those was Wikipedia. And they talk about a popular television show, and in that entrance on the Internet for Wikipedia, they talk about a vessel captain in the Bering Sea crab

industry that had a heart attack, and then he had, had a second heart attack which was precipitated by a severe reaction to an antibiotic. And then it goes on to say he had to be medically cleared before he returned to work to complete filming the particular season of the show.

And my question is, did the Coast Guard have any knowledge of this medical condition based on what you know or any understanding of what went on with that individual? And this individual does not have a Coast Guard license.

A. It's -- I would say it is very difficult if you have an unlicensed mariner, and in the scenario that you just laid out, it would be very hard, unless if -- unless there were reports to the Coast Guard or the local sector, we may not know at all. There are reporting requirements as a result of certain marine casualties, as we know, but not all of these reportings constitute a submission of a 2692, for example. So depending on the situation, we may not know. And many times, we do not know. It may not warrant the visit of an examiner or an investigator, for example.

Q. And then, just to be clear, we don't clear an individual such as that to return to work. Is that correct?

A. No, sir. No. Now, that may be a company requirement, but that is not a Coast Guard requirement.

Q. So Mr. Barcott asked you about the tasking of the National Commercial Fishing Safety Advisory Council on the basis of these

accidents to examine the accidents and assist the Coast Guard in providing legislation. But in the *Conception* accident, which was the dive boat fire that occurred off the coast of California, Congress acted and proposed legislation for the safety of overnight small passenger vessels, without the Coast Guard investigation being complete. Do you know if that is, in fact, true?

A. I do not.

Q. Okay. Thank you, sir.

MR. FAWCETT: That's all I have.

THE WITNESS: Thank you.

CAPT CALLAGHAN: Thank you, Mr. Fawcett.

BY CAPT CALLAGHAN:

Q. Mr. Myers, I have a couple of quick follow-on for you, again relating to the advisory committee we discussed earlier with regard to, one of the successes you had mentioned was implementation of training. And so is there any currency or recommendations for currency in regard to that training?

A. That was not that -- this is -- the training that I speak of with these accepted courses, they are of a voluntary nature.

Q. Okay. Thank you.

A. Not mandated.

Q. And so that was my second question. Do all the fishermen have to -- are they all required to take the training or is it all optional?

A. Optional. There are certain requirements for credentialed mariners, but for non-credentialed mariners, much of this training is optional.

Q. Thank you, sir. And last, with regard to outreach initiatives, are there other platforms that the Coast Guard or the advisory committees utilize for the fishing vessel industry with regard to maybe social media and the like?

A. Can you maybe rephrase that question, Captain? Are you, are you looking at the various outlets for outreach or --

Q. Yes. Yes.

A. -- what they're currently using?

Q. Yes.

A. We have a very robust outreach program within the Coast Guard in our fishing vessel networks of district coordinators and sectors and field units. And so with -- we -- yes, we have avenues such as Fish Safe websites, our DCO website, which have quite a laundry list of stability and training and lifesaving curriculums and videos and outreach mechanisms, guidance, and Marine Safety Information Bulletins, for example.

But along with that, we do have a robust dockside exam program where examiners may take a damaged control trainer to the pier on certain industry days and run mariners through a program. And we even run that through the Sea Scouts and the Boy Scouts, and our auxiliary is involved with that. So I, so I think, depending on the geographic area, depending on the season, there

are outreach initiatives, fish expos. There's media on the radio. We just have a -- probably a list of dozens and dozens of outreach agendas going on at any given time.

And part of our work instruction, the communication plans work instruction, we do emphasize that with our, with our OCMIs and our units to look at the need of the public, make sure it's transparent, it's two-way communications, and we just don't do training because we need to do training. We look at the need for that geographic area, such as Mr. Wilwert the other day, last Friday, commenting on weighing pots initiative in Dutch Harbor. You know, that's an outreach initiative that's very successful, and so we just have a lot of different tentacles out there with our outreach.

Q. Sure, and I appreciate that. And so the last thing I just want for the record to -- we would like to reach out and request a copy of the strategic plan, so we'll have a follow-up with you following the hearing to get a copy of that, please.

A. Yes, sir. Definitely.

Q. Sure.

CAPT CALLAGHAN: Thank you very much for your time. I greatly appreciate your testimony today. It was very informative, and I think it will serve to benefit not only the investigation but the public at large. So thank you.

Mr. Myers, you are now released as a witness at this formal hearing. I thank you for your testimony and cooperation. If I

later determine that this Board needs additional information from you, we will contact you through counsel. If you have any questions about the investigation, you may contact any member of the Board.

Mr. Myers, thank you very much.

THE WITNESS: Thank you.

(Witness excused.)

CAPT CALLAGHAN: It is now 1202. This hearing will now take a recess. We are scheduled to resume at 1300 today for our next witness.

(Off the record at 12:02 p.m.)

(On the record at 1:02 p.m.)

CAPT CALLAGHAN: Good afternoon. The time is 1302. This hearing is now back in session. We'll now hear testimony from Mr. Shawn Simmons.

Mr. Simmons, Lieutenant McPhillips will now administer the oath and ask a few preliminary questions.

MR. SIMMONS: Okay.

LT McPHILLIPS: Mr. Simmons, please stand and raise your right hand.

(Whereupon,

SHAWN SIMMONS

was called as a witness and, after being first duly sworn, was examined and testified as follows:)

LT McPHILLIPS: Please be seated. Please state your full

name and spell the last name.

THE WITNESS: Yes, Shawn Simmons, S-i-m-m-o-n-s.

LT McPHILLIPS: Please identify counsel or a representative if present.

THE WITNESS: Nope.

LT McPHILLIPS: Please tell us, what is your current employment and position?

THE WITNESS: Sales and certified tech at Marine Safety Services.

LT McPHILLIPS: What are your general responsibilities in that job?

THE WITNESS: The sales, servicing liferafts, parts, supply, making sure we have the equipment that we need. Just in general a bunch of miscellaneous stuff that I'm required to do.

LT McPHILLIPS: Can you briefly tell us your relevant work history?

THE WITNESS: I've been working for Marine Safety for 25 years. My father actually started our company in 1982. And when I graduated high school, I started working here, so I've been here for a while.

LT McPHILLIPS: What is your education related to that position?

THE WITNESS: High school graduate, and then I've been going to schooling for the manufacturers since I was 17, 18 years old.

LT McPHILLIPS: Do you have any professional licenses or

certificates related to your position?

THE WITNESS: Yeah. I own -- I have a bunch of certificates for a bunch of the equipment that we work on, you know, from the firing heads to the servicing station for liferafts, EPIRBs, et cetera.

LT McPHILLIPS: Thank you, sir. Captain Callaghan will now have follow up questions for you.

THE WITNESS: Yep.

CAPT CALLAGHAN: Good afternoon, sir. I'm now going to turn it over to Commander Denny for questions for you, sir.

CDR DENNY: Good afternoon. So I think it was Mr. Fawcett.

MR. FAWCETT: Okay.

CDR DENNY: Excuse me.

CAPT CALLAGHAN: My apologies. So I'm going to pass it to Keith Fawcett.

MR. FAWCETT: Okay.

EXAMINATION OF SHAWN SIMMONS

BY MR. FAWCETT:

Q. So, Mr. Simmons, thank you very much for being here with us today.

A. Yep.

Q. So we've taken some of the videos that were shot at your facility and other documents and created a -- we have created exhibits out of them. And as we move around those exhibits, if you need more time to look at them, or you want us to scroll down

or zoom in, let us know. You'll see them on your desktop where you're sitting there in your office.

A. Okay.

Q. So we really want to take the opportunity to thank you for allowing us to visit your facility and the explanations that you gave about principle lifesaving equipment that was used on the *Scandies Rose*. So thank you again for that.

A. Yep. No problem at all.

Q. So would you elaborate on the training and certification? You mentioned you were a certified tech. Would you kind of just expand on that a little bit, the type of schools and how long the schools are?

A. Yeah, so -- yeah. Go ahead. Sorry.

Q. No, I was going to say, you can talk about any particular equipment, like for the inspection and certification of a liferaft, for example.

A. Yeah. So typically, if you're, if you're a first service tech, you have to go for a minimum of five days. After that, it's a three-day week course. They show you any new stuff that's in the field that you might be seeing. They go over from the firing heads to the buoyancy tubes, any of the pack change, pack arrangements. There's a survival pack inside the liferaft, so sometimes those will move around in the liferaft, depending on what model. They go over any torque changes in the CO2 bottles. They've changed several times over all the years. And they use

all kinds of different cylinders, firing heads. And so each model raft has a different firing head as a different model. Some models are the same, but you have to go over the manual and make sure that that's all correct.

But you have to get training on what you're doing, what you're servicing. You have to make sure that you know what -- you know, understand the manual on how it, you know, relates to you when you're servicing a liferaft. But that's the main, the main aspects. Once you do a liferaft, over the next three to five years, they might change to a different CO2 system, so then when you go to school, they'll be like, hey, we're coming out with a new CO2 system. We're changing the firing heads. You know, if there's any changes during the year, there will be service bulletins. And then they'll say, hey, we're using this new firing head, or you have to change this valve at this certain -- you know, if they have a failure or something out of the ordinary, they'll send out a service bulletin so you know what kind of changes you'll need to do.

And then, if you have more questions, you'll email the manufacturer's service and ask him if you have any -- you know, if there's some questions about what's going on, if you don't understand it.

Q. So for the public, when you say firing head, are you talking about the device that fires a pin which punctures the cylinder which allows gas to fill the buoyancy chambers?

A. Yes. And over the years, they've always changed. There's a lot of manufacturers involved in that. You know, they've changed different CO2 cylinders for different models. That's one of the major changes, you know. And then, plus, they use different cylinders. There's a triple mark cylinder. There's a non-triple mark cylinder. And they use different gas, so you might do the same liferaft but there's multiple bottles that you could put in that because there's two different gas charges. But it depends on the cylinder.

Q. So could there be a recall, for example, on a particular item and you guys would affect the recall and then replace the recalled item so that the proper item was fitted into the survival equipment?

A. Yes. Yeah. Yeah. Another thing is they use torque, everything's usually torqued inside the lift raft. So any components there's a torqueing on it, you know, from the CO2 hose to the firing head, you know. Also there's a PRV valve also that releases the pressure of that liferaft. They put nitrogen and CO2 mixture in those liferafts, and the reason they do that is because, if you're in extremely cold climate, the CO2 will fluctuate in pressure. That liferaft has to be board-able within one minute, no matter if it's negative 30 or it's 110 degrees outside. But they put nitrogen in there, and it sits on top of the CO2, so if it's very, very cold, that nitrogen will push that CO2 out so that liferaft will still fire in the necessary

timeframe.
Q. So for a liferaft that would be used in the Bering Sea of the Aleutians, it would be serviced, in terms of the gases, differently than if it was going to be used in the Gulf of Mexico or the Caribbean?
A. No. They use the same, they use the same gas charge, but they put nitrogen in there, so that way if they're in the Caribbean or up in the Aleutian Chain, you know, up in Nome, you know, where it's extremely, extremely cold, that liferaft will still fire within one minute.
Q. So what you're talking about is torques, types of gases, safety recalls and so forth. Does the Coast Guard inspect your facility to make sure it's in compliance with the servicing requirements for the rafts? Could you talk about that a little bit if that's correct?
A. Yeah. Yeah. So every day we turn in a thing for the liferafts that are being serviced the next following day. Someone from the Coast Guard will come in -- they used to come in more frequently. Sometimes they come in and they want to see a gas firing when they launch the liferaft with a CO2 ball. That's every five years.
They also -- they have -- the Coast Guard will also bring people in here for training because they need that to get their license. It's like the last step for them to be a qualified Coast Guard inspector, so they'll -- one guy will bring in three or four

people every once in a while to get them trained up and kind of sits, and it gives them the rundown of what we're doing when we're servicing the liferaft.

And then what they'll do is an audit. And on that audit they'll make sure -- there's a bunch of -- there's about a two-page list of everything that has to be in spec and then also everything that has to be within -- you have to have torque wrenches, they have to have certifications, the scales have to have certificates. You know, like we have -- we hydro, we hydro and fill CO2 bottles. They look -- they just want to make sure all our stuff is certified and within the year timeframe.

Q. So you mentioned that they, the Coast Guard, hadn't come in as frequently. Does that have anything to do with -- other than COVID? In other words, is that an impact of the COVID pandemic or --

A. Yeah, it's -- I believe, I believe so because, like I told the Coast Guard, we've just got to be very careful. I want to make sure they're standing six feet apart when they come. And basically what they're doing is they're doing an overview. They're not asking a bunch of questions. They're just overviewing what we're doing and what we're servicing. And if they have a question like, hey, how many water run in that unit? Well, there's 72 in that. Oh, okay. Did you replace the cylinder? You know, they'll ask some questions like that. But they're basically overviewing, like shadowing you when you're servicing a liferaft

just to kind of get the idea of what's going on when you're servicing that.

Q. So is your company -- just a general question, does your company participate in industry trade groups or advisory groups that advise the government about safety equipment such as rafts and flares and so forth?

A. No, sir.

Q. So when you're -- when equipment comes to your facility, would you know if the safety equipment that would be carried on the *Scandies Rose*, if you're servicing all of it, for example, all of the regulated equipment that's required?

A. Would we know about if we did?

Q. Yeah. Would you, would you know if the *Scandies Rose* was in compliance with what they were supposed to carry? In other words, liferafts, the packages of survival equipment inside, EPIRB, and other similar --

A Yeah. So, so for that, for -- like if a vessel came in, they would drop their equipment off, and if I had a -- so let's say like the *Scandies Rose*, I believe they had two liferafts. They were only required one, but a lot of these vessels that go in some gnarly weather that are on the Aleutian Chain, they only have like a six- or seven-man crew. But they're always worried if the boat rolls right or rolls left, so they'll put redundancy equipment on that vessel.

But when they drop off the equipment, you know, if I know --

let's say they drop -- they have a six-man liferaft, and they ask -- I'll say, don't you guys have a -- run a seven-man crew? Oh, yeah, we run eight people. So they'll need an eight-man liferaft.

But all I tell them is they need to check their dates of all their equipment, and if they have any questions, please call us. And then I can point them in the right direction if anything needs to be changed, et cetera. But I don't -- I actually don't know what -- if they have -- if they need ten fire extinguishers. If they have, they may have 30 survival suits. I'm not sure. But I basically tell them, any of your safety equipment, bring it in, and then I try to make sure that they have the adequate stuff.

They'll ask me like, hey, I got an eight-man crew. Do you have any big guys on the boat? Yeah, we have a couple big guys. Okay, you might want a jumbo suit for them. Well, we have this little guy who's only 4'11". Well, you might want an intermediate suit -- even though the adult suit will fit, you might want an intermediate suit. And then I'll ask them, hey, on your EPIRB, is your battery up to speed? Yep. Is your release up to speed? There's a hydrostatic release that launches it off the boat if it, if it goes down. Yep, that's up to speed. Make sure to check your registration.

I have a little check sheet form that I give the customers, and it kind of gives them kind of a broad stuff just to check out to make sure they're within date, because the last thing they want to do is get a Coast Guard inspection, and they're leaving the

next day, and they forgot some equipment to get serviced.
Q. So all of this equipment we're talking about, safety and survival equipment, the Coast Guard has a specification. It's called a Q-spec, and Q as in the letter Quebec. Could you explain what a Q-spec is?
A. I'm not sure what a Q-spec is.
Q. Okay. Is principle safety equipment stamped with a Coast Guard approval that includes the number and the type that --
A. Yes. Yeah, 160. So if it doesn't have the 160 number, it wouldn't be Coast Guard approved. And then, on the SOLAS equipment, they have like a round -- it's like a wheel, and that's also a stamp that shows it's SOLAS approved.
Q. And so SOLAS is equipment carried by ocean going ships that is part of the Safety Of Life At Sea, came after the Titanic, a lot of the provisions. So it's devoted strictly to lifesaving equipment. Would that be correct?
A. Yes, sir.
Q. So your facility is approved for the servicing of liferaft and equipment. Correct?
A. Yes, sir. Yes, sir.
Q. So, while Commander Denny was there -- or let me back up a little bit. We have an exhibit that's Coast Guard Exhibit 010. It's going to come on your screen in just a minute.
A. Okay.
Q. And this is a batch of inspection and invoices for safety

equipment for the *Scandies Rose*. And you'll see on your screen, we'll start on Page 22 first.

A. Yep.

Q. And could you just very generally tell us what we're looking at?

A. Yeah. So the types up on the, on the top left corner, that specifies the brand. So that's a DVC liferaft. And then next to it says TO, and that is considered a throw-over. Now, if that would have been a DAVIT or something, it would specify something else. But that's a throw-over liferaft. Then the serial number there is every liferaft has its own serial number, then they have a date of manufacture next to it. Then down below it says fabric type, so there's like natural rubber or polyurethane, so you'll specify if it's a rubber or a polyurethane liferaft.

And then the next one will be capacity. So how many man is it? That would be an eight-man. And then the next is 30M, that's 30 meters of painter line inside that liferaft. And there's one meter outside that liferaft to tie it to this hydrostatic release, you know, for -- you know, to secure it. And then you've got a max height of 20 meters it can be stored.

Then you have -- you step down to the cylinder. Every cylinder will have a serial number on it. Those numbers will be listed right there. Then there'll be CO2 charge. Now, there can be two different charges. They can be -- this particular one is a 4.2 Kg charge. Some will be in pounds; some will be in Kgs. And

then you just have to read next to it if it's pounds or Kgs. This one's Kgs. Then you to the nitrogen charge of 2.46. That also can be pounds or Kgs, and it will usually go with the same as the CO2 charge. So these are both Kgs here. Then it'll have a hydro test date, and that would be November of '17.

Then you'll step down to the emergency pack. The emergency pack of this liferaft is a SOLAS A. Now, a SOLAS A does not limit you. You can go anywhere in the world with a SOLAS A. There's no -- you can't -- a SOLAS B, you can only go out 50 miles. So on a SOLAS A, you can go wherever you want. Then there's a serial number. On the pack equipment, there is no serial number. It's just a pack bag with all of the equipment inside. Now, on expire date -- now the equipment should line up with the expire date a minimum of one year inside that liferaft. You know, some of that stuff might be good for two or three or four years, but as long as its good for one year.

Next is an EPIRB inside that liferaft. N/A, it's not applicable. Some customers choose to put EPIRBs in the liferafts; some do not. There's going to be EPIRB on the vessel, so that's why they don't -- no, I don't need one for the liferaft. The next one will be hydrostatic release. That is a Hammar release, that's the type. They'll have a serial number of the release that was used and then when that expires, and that would be June '20. Rear reflectors are not required, so we just put N/A.

Then on the first aid kit, it's a marine first aid kit.

There's no real serial number on that, but there will be an expire date, and like I said, it has to be good for a minimum of a year. And then the next one below is a unit with the CO2 sensors. These rafts are not set up -- those are a different style liferaft. This certificate is a general and goes for all liferafts, so that wouldn't be filled in.

The next one is a NAP test. That will be done at the ten-year mark and then on, so that was performed. Then you step to the gas inflation. The gas inflations are good for five years, and that specifies no, it was not gas fired. The floor seam test will be required -- some will require one year and then some will require at the ten year and ten year on. This was done along with the NAP test. And then the load test DAVIT launch, if it's a DAVIT liferaft, it'll have to be tested every other year, but this is not a DAVIT liferaft, so it's specified no.

Then there's a date of inspection. The date of inspection was April 17th, 2019. The station number, Marine Safety Services. Then it was issued to the ship. So we kept that liferaft, and we issued it to that ship on June 1st of 2019. Then down below that is the authorization number. Every service station in the United States has a U.S. Coast Guard approval number, and everybody will be different. Ours is 427. And what the main thing we did was an annual service on that liferaft. The parachute rockets were expired. A floor seam test, a NAP test, and then that liferaft went into service on June of 2019. This liferaft will only be

good for one year.

Then you step down below that, it'll ask flagship of the vessel, United States. Then it'll say who certified it, Jeff Lee Clark. Then there's an IMO. This isn't going to be an IMO issue. Same with international call sign. They don't need that for the certificates for the USA. But the name of the vessel is *Scandies Rose* and the fishing vessel *Scandies Rose* and then a signature.

And then all the certificates are -- come from online database, so all this information has to be generated, and then the manufacturer keeps this in their log. So let's say this liferaft -- everybody's stuff -- nobody had a certificate. It got completely lost. The manufacturer could supply that certificate for that liferaft. In case you guys found it floating and all you could read was a serial number of the liferaft, they can, they can find out who it is.

Q. So a couple of follow-ups. That was a great explanation. The NAP test, what is that?

A. So that's additional pressure added to the liferaft. So that pressure has to be doubled for five minutes. After that liferaft's ten years old, that pressure would be doubled of its normal working pressure for five minutes. You're going to see if there's any seam slippage, any weird popping noise. Then what you're going to do is relieve the pressure, let it come down to the normal working pressure, and then perform your test.

And then, and then on the gas inflation test, every five

years you've got to gas inflate that liferaft. You want to make sure when that liferaft gas inflates, there's no weird cracking noise, no weird wearing noise, there's no -- nothing out of the ordinary on a gas inflation if this liferaft was used.

Now, on the floor seam test, that would be anybody that's 185 pounds, and what you'll do is you'll go around inside that liferaft -- you'll set the liferaft up a little bit off the floor, so the floor hangs a little bit, and what -- you'll go inside that floor, you'll make sure there's no seam slippage, anything out of the ordinary that, that floor could possibly rip out of that liferaft because you don't know the conditions that liferaft might go through.

Q. So the integrity of the fabric floor of the liferaft in emergency situations is crucial, correct?

A. Yes. And that's why they say after ten years, they want that floor seam test done every single year.

Q. So, Lieutenant, if you could pull that exhibit back up. I'd like you to go to -- briefly scroll through page 23, 24, 25. And just take a moment, Mr. Simmons, just to look at it. Could you tell us on this page basically what we're looking at? Just an overview. You don't have to go through everything.

A. Yeah, yeah. So that is a service and inspection charge. So we charge $275 to do the service on that liferaft. The next one would be certification fee. We charge $175. That's a franchise fee that goes to the manufacturer and then also for anything that

has to be tracked.

So every liferaft is always going to have a recertification fee and that's through whatever manufacturer's doing it, for them to record it, et cetera. Then there's going to be an adhesive replacement inside that liferaft. Every time that liferaft gets serviced, you're going to change that adhesive inside that liferaft.

Q Okay.

MR. FAWCETT: Mr. Simmons, please hold up just second, please.

THE WITNESS: Yep.

CAPT CALLAGHAN: Mr. Simmons, we're going to take a, just a two-minute recess. We've got a little technical difficulty we're going to try and resolve here.

THE WITNESS: Yeah, no problem.

(Off the record at 1:26 p.m.)

(On the record at 1:28 p.m.)

CAPT CALLAGHAN: Okay, sir. It's 1328, and we're back -- now back in session. I apologize for that interruption, sir.

THE WITNESS: No problem at all.

So going back here, so the inspection of that liferaft is $275. Then the recertification is $175, and that is a franchise fee for the manufacturer. Then the next line item would be repair kit adhesive; if they have to make a repair, that would be done every year. There will be flashlight batteries and then spare

batteries, so that's why there's six, and they're $2.50 each. Then there's container labels. So the container labels specify if it's an A pack, B pack, how many, you know, they'll have all the information on that liferaft.

Then there's a leak, cylinder leak test. So we'll test that cylinder from a minimum of an hour just to make sure the cylinder doesn't leak. And then we'll weigh that cylinder just to make sure its within specifications. The next is a firing, rework firing head and lubricate. So when that firing head will come off that liferaft, we'll do a test fire, reset it and re-lubricate that firing head.

Then the next is fiber washers. Those are -- because they're a crushed washer, so when those come off, you'll put two new ones on, and those go on to the CO2 hoses, and then they're basically sealed back on those CO2 hoses. The copper washer there goes on top of the firing head, on top of the cylinder, and that actually gets crushed also. That's a one time -- once it's crushed, you're locked, because these are torques on their also.

Then there will be black tape around the liferaft for a seal, so that way, you know, you want to make it water resistant. Then there will be a beacon light test. We'll test the, you know, the batteries, you know, the batteries, the lights, make sure everything was compliant. Then there will be seasick tablets. There's 12 tablets per -- or six tablets per person. There will be some seasick tablets in there so if anybody gets seasick, et

cetera.

Then there'll be a launching placard that shows everybody how to launch that liferaft off the vessel, and then that has specifications, a little picture and diagrams so they'll know how to launch it. The next will be a burst strap by BVC. So that liferaft is strapped in that fiberglass container, so when they throw it over, that liferaft will inflate, and it blows those straps off of that liferaft. And the reason there's three -- there's actually two -- they run three -- there's three areas on the, on the liferaft of where they actually go.

Then there's a hinge. There's a black hinge that goes on one side of that container that helps that liferaft fire right side up, so it won't clam shell reverse. It'll clam shell open, so it'll fire right side up. The next is parachutes. There's four parachute rockets in there that also were changed out. Those will be good for three-year intervals.

BY MR. FAWCETT:

Q. So without going into the other -- the following two documents, which contain similar information for the other raft, could you --

A. This --

Q. Go ahead.

A. This document here from Alaska Marine Safety, this document is -- so there's two packs of lithium batteries. That would not be for the liferaft. That -- because if we service the liferaft,

there would be a whole bunch more documentation. They picked this up from our shop up in Alaska, so I'm thinking these are the six batteries that -- I don't know for a fact, but I would think they picked them up for their survival suits because we supply batteries for the survival suits, a dated lithium battery. So it's not specified here, but we just hand them to them. They asked for six packs of lithium batteries, so I'm pretty sure they're for their survival suits.

The next one is an EPIRB release. That is for the EPIRB. Every two years on those EPIRB releases, they have to be changed out.

Q. So they also talk in that previous document about a beacon light. Is that -- the beacon light test, is that on top of the raft?

A. Yes. This is, this is for the liferaft. And that next -- the next invoice is from our other liferaft shop up in Alaska. They just bought some miscellaneous equipment.

Q. Okay. So both rafts were serviced by your facility. Is that correct?

A. I believe so.

Q. And when they left your shop, they would be in full compliance with regulations, and that would include the equipment that are contained in the raft. Is that correct?

A. Yes, sir.

Q. Okay. I'm going to -- you can take that down, Lieutenant.

So now we asked you to talk about liferafts when we were at the -- your facility, Commander Denny and you went through these. So what I'm going to do is we're going to pull up Exhibit 97, which takes a moment to get it together here.

A. Okay.

Q. And then you narrated this. And at the conclusion of the video, if you can offer any more than you originally talked about, please do. And if I have any questions, I will ask you. Okay?

A. Okay.

MR. FAWCETT: So we're going to play the first one, 97.

(Exhibit 97, recording of Marine Safety Systems Liferaft Walk Around, plays.)

THE WITNESS: This is the same make and model of the BVC Zodiac liferaft that the *Scandies Rose* had. So it has a double insulated canopy, the boarding ramp, the insulated floor. It has sea anchor on the side of it here. It has --

BY MR. FAWCETT:

Q. Okay. Do you have any additional comments about that particular part of the demonstration?

A. No. That was the liferaft. I believe that was the same year and make that was actually on the *Scandies Rose*. As you could see, there is reflective tape on the top of that liferaft, and then also on the bottom of that liferaft, there's also reflective tape that makes a cross so that way it can be seen -- in case that liferaft was upside down, you would be able to see that liferaft

if it was upside down, you know, also.
Q. And Coast Guard ships and aircraft use high powered searchlights to look for victims, and that retroreflective tape would be activated in such a way that it would really light up at night, is that correct, so that they could help find the individuals?
A. Yes, sir.
Q. Now the raft is sitting on the floor of your facility. If I were to lift that raft up, would there be water packets there that help keep the raft in an upright position?
A. Yes. There's, there's a CO2 bottle that's actually underneath the front that's attached, and then there's water packets storage and they're roughly about two feet, two and a half feet deep, and they're all the way around that liferaft that keeps that liferaft from flipping upside down.
Also there's a sea anchor that's automatically launched when that liferaft inflates. That's going to be towing in about 150 feet behind you. So when they're getting in that liferaft and if it's really wavy, those ballast pockets are going to keep that liferaft pretty steady in the water.
Then there's a drogue that's towing 150 feet behind you to keep that liferaft on the breaking waves trying to throw that liferaft upside down. There's also a spare sea anchor inside that liferaft that they can also deploy if it's that extreme weather that they have to say, you know, this is -- we need to deploy two.

There's actually two. One's automatic, one's a manual.
Q. So have you ever gone to these training programs like AMC or the North Pacific Vessel Owners Association or the Crawford School to give them information about safety and survival equipment?
A. They actually call us a lot. We've been working with a lot of the programs, and they actually call and talk to us every once in a while. We do a lot of the safety rafts, actually, for their training purposes because there's training going on everywhere, and they -- we actually do a lot of the training rafts, you know, just, you know, so that way someone can see a gas inflation, you know, just how the liferaft works, what are they expecting. And then they'll jump in the liferaft, you know, and they'll talk about, you know, what to do and et cetera.

But no, we don't really get involved with actually doing the training. But the trainers will call, you know, and ask us some questions. Or they'll need a pack. You know, they'll say, hey, we've got to show these people what is inside a liferaft. You know, they don't know when they need a liferaft. We have to show them what's inside. So we'll give them a whole pack bag, so that shows they'll have food, you know, rockets, flares, you know, PRV plugs, repair kit, flashlight. So that way they'll have an idea what is in that liferaft.
Q. So PRV?
A. Yeah. Pressure relief plugs. So let's say, let's say they're in -- it's extreme weather and there's a wave breaking

over that liferaft, right? So there's PRV plugs or PRVs on that liferaft that'll start dissipating some of the pressure on that liferaft. So let's say the liferaft is going flat because the waves keep coming down on that liferaft and just crushing it. They can put this plug on the PRV so it'll stop leaking all that air, so that way if they're pumping inside -- I mean, this is pretty extreme, but you just never know the conditions that you're in.

Q. And speaking about extreme and looking at that particular raft, if the unimaginable were to happen and that raft were to capsize in those big breaking waves or high winds, is there a way to flip that raft using the equipment in the raft back to the upright position?

A. No. They wouldn't use the equipment in that liferaft. Actually there's a strap, there's a strap that goes on the back of that liferaft where it will actually hang on, place their feet on the CO2 bottle. There's a little diagram that shows they place their feet, they grab that strap and then pull it back onto themselves.

MR. FAWCETT: So now we're going to move to Exhibit 98, and that's another video you did. So if you could pull that up, Lieutenant.

(Exhibit 98, recording of Marine Safety Services Liferaft Demo, plays.)

MR. FAWCETT: Could you stop it, Lieutenant, real quick?

BY MR. FAWCETT:

Q. I didn't want to stop it, but I do want to say that we don't have any clear images of the boarding platform. So if you look in the lower left corner, could you talk about the boarding platform before we resume the video, Mr. Simmons?

A. Yeah. So if you look on that bottom platform, there's actually four straps. There's a strap that goes on the top of it and then also the side of it so that way that boarding ramp can't shift right or left. Then there's also two straps that run across that also so that way they can put their foot to pop themselves in. Back in the day, they used to use air ones with filled air. But with this, this can be punctured.

So let's say they have their shoes on and they're, you know, trying to get in, you know, and that would deflate the liferaft. So this is actually a non-inflatable boarding ramp, and what they'll do is they will get their foot on that thing there and then pop themselves into that liferaft. And they have -- and you can see there, the two you're looking on the one side, that just keeps it from shifting in right or left directions.

Q. So if I was in my survival suit and I was in the water, I would approach the area in the lower left-hand corner, the kind of white slab?

A. Yes.

Q. And then grasp the raft and then hoist myself as far as I could get. And then another heave or maybe subsequent heaves,

pull myself into the raft. Is that correct?
A. Yes. And what you'll do is you'll put -- so you can see a strap run across that white, the platform right there. There's two of those straps. So you can put your foot on there to apply pressure to pop yourself, so that way you've got something to push against to get into the liferaft.
Q. And what am I going to find on, you know, a dark night when I have to do this in regard to the canopy opening? In other words, is it going to open --
A. Yes. Yes. The canopy will open, and then right by my hand, you see a tie. That tie goes up there into a little round loop. And then there's a tail. So if you have a gumby suit, all you're going to do is pull that tail and pull. That releases it so you can close the canopy.
But every liferaft, the canopy will actually be open when you go to get into it. Other than a Givens liferaft. A Givens liferaft actually closes the door and you have to actually open it up. But for this scenario, 99 percent of the U.S. Coast Guard approved liferafts, they have an open door so then they can get inside. Now, if this liferaft was a 10-man or bigger, there would actually be two entryways.
Q. So, in your professional opinion, is it important that you get trained so you know how to rapidly and effectively get in the raft?
A. Absolutely.

Q. Okay.

MR. FAWCETT: So, Lieutenant, if you'd resume the video, please.

(Exhibit 98, recording of Marine Safety Systems Liferaft Demo, plays.)

BY MR. FAWCETT:

Q. Do you have any follow-on for us, Mr. Simmons?

A. Yeah. So you'll have to use -- if you throw that liferaft over the vessel and you deploy that liferaft, you'll have to pull out, you know, the 90 feet and then fire that liferaft. Now that liferaft, if you tied that off to a railing and they jump into the liferaft, right, then if the liferaft goes down and they can't cut themselves free quick enough, that liferaft goes down with the vessel. And so one of the biggest things is these boats have high free board, and they're always afraid, once they fire the liferaft off, you know, they got to be able to hang onto the painter line.

Now, there's a hydrostatic release that that's onto. That will break at 550 pounds of pressure. So if the vessel goes one way and the liferaft goes the other way, that will break. But what -- or let's say they jump into that liferaft at 2 o'clock in the morning, and the vessel starts sinking, and the raft's starting to buckle. It will break free from that vessel. And that's from a four-man up to a 150-man, you know, on the hydrostatic releases.

Now, what I have seen is they hook it up incorrectly, and if

that -- let's say a vessel sinks tomorrow, they'll hook up -- it says hook to a solid point on the vessel, and they're not paying attention. They don't really know how to hook up a hydrostatic release because they weren't trained. We try to show them, but they hook up that liferaft to that hydrostatic, that vessel goes down, and it's 2 o'clock -- those vessels happen to go down very, very quickly, and it's never on a nice day, you know, 8 o'clock, you know, 6 o'clock in the afternoon; they've got time. It's usually very dark, extreme weather, they have to act very quickly. And if they secure that painter line to the vessel, and that vessel goes down, that liferaft will go down with that vessel. So knowing where to -- how to cut -- your knife, cut yourself free, that's a major, that's a major thing that they have to know.

And also, you know, hooking up the hydrostatic release correctly. I go out in the field, you know, I'm out in the marine industry a lot, and I see a lot of stuff. And a lot of these hydrostatic releases, they just don't hook them up correctly by following the directions. And if that thing is not hooked up, it will not work. And that is a big thing that actually worries me because who -- once these liferafts leave out in the field, how do we know if they're hooked up correct? And the problem is, you know, we don't know.

So if something's -- like on the *Scandies Rose*, that vessel went down, those hydrostatic releases launched those liferafts underneath the water and popped to the surface because they were

hooked up correctly. But I do see a lot of liferafts hooked up in the field, if they were in the same ordeal as the *Scandies Rose*, the liferaft would have never popped to the surface because it would have went down with the vessel because there's no weak link point. Once that painter line is connected to a solid point, it needs to be hooked to the proper part on the hydrostatic release.

Q. Now, you won't -- you may not know the answer to this question, but for an inspected vessel, does the Coast Guard, when they go out, do they actually inspect the correct connection of the hydrostatic release and the raft and the webbing that holds the raft to the cradle?

A. I'm not sure.

Q. And you were talking about the traumatic experience of a vessel sinking. How about if the crew elected to -- you know, in case someone on the *Scandies Rose* put the raft on deck and inflated on deck. Would there be -- would that be a bad thing to do?

A. Yeah. Because they could bang around on the deck and rip the liferaft possibly. It would be very dangerous. I wouldn't recommend that. They could do it, but I wouldn't recommend it. I would recommend throwing -- try to read the wind, throw it over, you know, hold the line or least wrap it around maybe once to hold it so that it can't, you know, float away. Get into the liferaft. Where you tied it around -- you didn't knot it, you just kind of held it there, you know, used -- you know, for pressure. Then you

get in the liferaft. And then once you get in, you can cut yourself free.

But if you can't get in a liferaft, it's not tied to a solid point, because, you know, some of these vessels are only four feet off the water, you know, and they've got a 100-foot painter line. Because we don't know if they're putting it on a raft that's four feet off the water or, you know, it's 60 feet off the water. We don't know. But we want to make sure that liferaft, it meets all those requirements. But the thing is, is I've seen them where they pull the painter line, and they've tied it off to a solid point, and I'm like, you don't want to do that. You just -- you have just now bypassed your hydrostatic release weak point that will release that liferaft.

And when you have to find that knife in a lickety-split, those liferafts -- a lot of liferafts, the knives move around. So you might have went in a training course, that knife was right here, and the next -- you know, their liferaft, it's in the canopy, or it's a little bit over here. There's no specified -- it's just the knife has to be next to the entrance point of that liferaft. There's no specified point where it has to be. And the problem is, even if they know where it's at, I mean, you've got to do this in an instant, you know.

And that's, that's -- I'm just happy they -- I've seen a vessel with it incorrect, and I'm talking people that had them for 20 years, and I just happened to look -- and also my shop in Dutch

Harbor, my guys went out today, hooked this up correctly. Oh, we thought it was correct. No, it's incorrect. And it absolutely has to be hooked up correctly. It's very, very important. And nobody looks at it. Once they leave my facility, they don't look at that always.

You know, like on the *Scandies Rose*, it worked exactly how it was supposed to. The vessel went down, it launched anywhere from 9, 6 to 12 feet deep, and then underneath the water, the raft floated. It snapped, the 550-break point, and then they fired up into the surface. Now, if they would have hooked that raft up incorrectly, it would -- those rafts would have never showed up to the surface.

Q. So when you mention a lot of vessels don't have the rafts hooked up correctly, are you saying that some of those are fishing vessels?

A. Yeah. I just, I just happened to see it. And I, you know, I've been doing this 25 years, and I know a lot of these people in the industry. You know, I've seen their -- I just, I do this stuff full-time. I've been doing it a long time, my father's been doing it 38 years, so I know all these people personally. And although I see something, I'm like, you guys got to hook this up right. And the problem is someone told somebody how to hook it up, but they didn't know. So they just hooked it up how they thought it should go, you know. And the problem -- you can't -- you know, and that's someone -- you should make sure that someone

-- absolutely make sure they're hooked up correctly.
Q. And just to reiterate, it was mentioned in the video, you did mention it about the thermal protection offered by the double floor and the double canopy. Could you just elaborate on that a little more?
A. Yeah. So all the off-shore liferafts, they will have a double canopy and a double flooring, so that way for hypothermia so that way they can stay warm. Also there's a ten percent -- they have to put a thermal protective suit, ten percent in the liferaft. So a four-man all the way to a 20-man, they'll have two of them. Now on 25, they'll have three because ten percent.

So they'll have these thermal suits, and so let's just say you had a six-man crew, and two people didn't get into their survival suits. They have these two thermal protected suits they can also get on to stay warm because the double floor and the double canopy are very important for warmth, mostly in the kind of waters between here and Alaska, because it gets extremely, extremely cold for hypothermia.
Q. Is the thermal suit kind of like an elaborate rain gear or something? You know, it would fit anybody?
A. Yeah. It's a general suit. It's like a big -- I would say like a -- what do you call it? It's like a, it's like a coffin style. It just -- yeah, it will go all the way down to your feet. They all fit in it. And that goes right up to your face, so the only thing you're going to see is your face. And then it has

arms. But it generally fits, it generally fits everybody.

It's like a -- what would it be -- like a sleeping bag. It's like a sleeping bag with arms, you know. A sleeping bag has a bottom cone and then it comes all the way up. So there's no real feet. You just stick your feet in there and then your arms, and then that's all you're going to see of your face to keep your body warm in case nobody can get into -- in case some people didn't get into their survival suits.

Q. So I want to shift your attention now to the emergency position radio indicating beacon which is also called an EPIRB. I'll just call it a beacon, okay?

A. Okay.

Q. It's a radio beacon.

MR. FAWCETT: So if you could please go to Exhibit 99, which is another demonstration video of the -- I'm sorry, go to 100, Lieutenant.

(Exhibit 100, recording of Marine Safety Systems EPIRB Video 1, plays.)

MR. FAWCETT: Do you have anything to add about that segment that we might not have covered in that segment?

THE WITNESS: No, that's exactly how they work. Basically the vessel goes down, that hydrostatic release releases at a certain pressure, then it flings it out, and then that EPIRB will float up to the surface and then also start travelling, you know, with the drift. And then that's where you'll get your

coordinates, kind of get an idea where your searching pattern is.

MR. FAWCETT: So if you could, Lieutenant, please play Exhibit 101?

(Exhibit 101, recording of Marine Safety Systems EPIRB Video 2, plays.)

BY MR. FAWCETT:

Q. Okay. Any further comments on that before I ask you a couple questions?

A. Yeah. No, so that's -- when it sits on that magnet -- because a lot of those vessels get a lot of moisture, waves, you know, whatever, that way it keeps that unit from turning on by sitting in that bracket the way it has to sit. Then, once it's out of that bracket, then it's live. As soon as it gets submerged in water, those active foam (ph.) points, then it will trigger.

Q. So you could also manually -- you could pick that device out of the bracket. You could take it somewhere like the pilothouse of a vessel. In the event you were going to have an emergency, you could have -- manually push the button and make it activate. Is that correct?

A. Yes, sir. Yeah. So you could break -- there's a little safety tab. You would move that safety tab and then hit the button. Now, let's say you pulled it out and you had it in your hand, right, and you're walking up to the house, and a wave hits you and knocks it out of your hand. You're like, oh my god, I didn't turn it on. It'll automatically turn on at that point.

Even if you didn't hit the manual button -- you know, like you'd want to hit it, and then you want to keep it with you, but let's say it gets hit out of your hand and goes floating away, it'll activate automatically.

Q. Does it have to float to transmit effectively? In other words, could a brief signal be emanated from the radio beacon if the, if the radio beacon was wet and the vessel started to sink, would a signal come out?

A. No. No. The signal will only go once it's activated. And they recommend they don't have it inside the liferaft because every time it shoots the coordinates, it won't, it won't shoot the exact coordinates. It might not give me -- you know, burst off to the satellite. Same if you take it in the vessel. If you have it in the vessel, the vessel's blocking the signal that it's trying to put out.

Q. So was this EPIRB or this radio beacon equipped with a GPS which would transmit the position of the radio beacon?

A. Yes, sir.

Q. And is it important for vessel owners to properly register their EPIRB so it would have, for example, the name of the vessel, the name of the owner, the telephone number to contact to prevent false destress signals or accurately identify the actual vessel in distress?

A. Absolutely. Yeah. Because if you put that EPIRB in there, and it's twisted a little sideways so it's not sitting on that

magnet properly, and then you take a couple waves, that EPIRB will turn on. Then if the phone -- that's why you want to make sure your registration is current because it will have all the correct phone numbers. They'll call and say, hey, we got an EPIRB going off on the vessel; is everything okay? Oh no, we're sitting at the dock, or we're just out, let me go look. Then they'll look and see the EPIRB's a little crooked in that case, and that's why it's sending that signal because it's getting wet. Then they'll fix it, get it in the thing, and then it -- they won't have a problem.

But yes, keeping a current registration is important, and that is done every two years from NOAA. Every two years, they'll send you -- if you're registered, every two years, they'll send out a form and say, is everything current? If there's any changes, we need to know.

Q. So if you've studied the sinking of the *Scandies Rose* from the newspapers, periodicals, television, the EPIRB did not transmit. Do you have any ideas as to what could have prevented the transmission of that radio beacon signal to the satellite?

A. The only thing, it had, it -- that EPIRB is a new model EPIRB, and actually, it's good for ten years on the battery and two years on the hydrostatic release. That's a pretty new EPIRB. The only thing I can think of is when the vessel went down and the suction of that vessel -- maybe when the windows blew out, it created a suction, and maybe it -- where the EPIRB was located --

I don't know exactly where the EPIRB was located, maybe it sucked it into the hull as it was going down so it couldn't fire the signals off. That's -- if I had to guess, that's what I would guess because I don't know. That EPIRB should have went off.
Q. So in testimony that we had here, the way I heard a witness say it was that the housing for the EPIRB, the launching mechanism, it appears to be made of plastic or some kind of composite material. Is that in any way delicate? In other words, if I had training which I conducted with my crew every month, and I wanted to show them, here's the EPIRB, here's how you take it out, and I put it back in and out. Is that a fragile mechanism?
A. Well, I mean, it's a piece of electronic, so you're going to want to be careful with it. But, you know, it's not, it's not that fragile, but it is something -- you know, it is electronics. That's why they recommend you test it every month, you know, just to make sure you have no problems, et cetera, with it because it is a piece of -- you know, it's an electrical device outside in the weather and all the conditions, you know.
Q. So I'm not taking about the beacon itself. I'm talking about --
A. The container?
Q. Yeah, that container and all the associated parts that we saw. And we'll look at another image of that in a minute, but is there any part of that that's fragile?
A. No. I mean, the container is pretty solid. It's a pretty

solid piece of plastic.
Q. All right. So moving off the rescue beacon, there was some testimony that -- first, let's talk about the canopy top light. Can you talk a little bit more about that? How it works, what's the power source.
A. Yeah. So on the canopy light, there's a light on the top and then there's also a battery with a light on the bottom. So inside the tube, you'll see a square battery, and then it has a light there, and then there's a wire that comes from there, and the wire goes up to the light. And that's on a trigger pin, so when that canopy inflates, it pulls the trigger pin and basically activates that light. So as soon as that canopy pops up like that, the trigger's pulled, and it automatically turns on.
Q. So to aid rescue forces, the exterior light, is that a strobe light or does it have some special --
A. Yeah, it's a -- it's like a blinking strobe light. Yes, sir. It's a blinking strobe light.
Q. And does it have a lens that it magnifies the intensity of the light coming from it?
A. I'm not sure.
Q. And the light inside, you're talking about the one that's part of that component, is that to illuminate the inside of the raft?
A. Yes, sir.
Q. So the flashlights that are in the survival pack, could you

talk a little about what they are, what kind they are?
A. Yeah. It's typically a D-cell flashlight, and then it has a spare bulb on the inside if you undo the cap. And then, and then it's just on a switch, and then you also have a little button also to, you know, just to use it when you need. And it also has a switch. And then it has a set of spare batteries also.
Q. Is there anything unique about it? In other words, is it designed to be watertight to a certain depth? Does it flash an SOS signal? Does it use special or unique batteries with a long shelf life?
A. No. It uses D-cell batteries. Some of the new lights, new liferafts, they actually use a double C-cell, but they're at -- to manufacturer recommendations that are approved by the Coast Guard. So I don't know what approvals they get, but it is a Coast Guard approved flashlight for those liferafts.
Q. So looking at the survival pack for a vessel like the *Scandies Rose*, are there any other items that aren't in the pack that might be helpful to be put in the pack that aren't contained within the typical pack that you'll see today, the SOLAS pack?
A. The one thing that some of the customers would like to put is a VHF, so that way if they got in the liferaft, they could do a mayday or try to get someone on the, on the comm or a SART, Search and Rescue transponder. That basically goes off to anybody's radar that's hitting them. It runs a line across their thing and turns off their autopilot and says, there's someone in distress at

this angle. And then, and then an EPIRB. You could do a personal EPIRB that they get in the liferaft, they click on the EPIRB, so they could be floating 200 miles away from where the vessel sank, but they'll know where that liferaft's at, so it will help for quicker response time.

Q. So let's -- am I correct in -- the personal EPIRB you're talking about, would that also be called a personal locater beacon?

A. Yes, sir.

Q. So I looked them up on the Internet. They cost approximately $400. Would that be ballpark?

A. Yeah. We sell them for $295.

Q. And if I had one of those as part of my equipment and I had it with me, do they clip to your survival suit? Do they have a lanyard? How do you hold on to them when you're in trouble?

A. Yeah, so it has a lanyard, and it goes through -- there's a little hole in the pocket of the survival suit, and then that goes and it ties basically to itself. So if it's floating out there, it's not -- it sits in the pocket, and then if you turn it on, it might sit in the pocket, but it's going to float next to you so that way it doesn't float away from you.

And I have some customers that actually put them on every single survival suit on the vessel so each individual guy has one. So if, let's say, the last man on that vessel didn't get into a liferaft, and that liferaft is moving quickly away or he's moving,

because he has no drag, and he's 20 miles from where the liferaft -- he's going to get picked up, because it's most likely -- let's say he got -- he tore his survival suit trying to get off the boat or something like that, if he was in distress, he will get hypothermia. He will get picked up, because they're going to be getting signal, and they'll be like, there's an EPIRB going off over here. We don't know whose it is maybe, but they're going to know that it's off of that vessel.

Q. So if a survivor enters the water and they happen to have one of these personal locator beacons, you mentioned they -- what do they do? Do they sort of mirror the way a rescue beacon, the larger rescue beacon is? Do they send a satellite signal with GPS coordinates so that the Coast Guard or the Canadian Coast Guard could hone in this person in distress?

A. Yes. It does the exact same thing as the vessel. It just doesn't last as long. And it also is telling it's a PLB, it's a personal locater beacon. So people use them for skiing, hiking, multi-use. But that -- if that way, when it's registered going off, they'll say, is this a PLB? And then some people will just put it to the vessel. So one vessel might have ten EPIRBs, but they send a tag that has the numbers. It'll start out ACDC. It's a 15-digit code. So they put that tag on every individual EPIRB so that way they can track them so that way you don't put the wrong tag on the wrong EPIRB.

Q. So I'm going to back to the bigger EPIRB, the rescue beacon

that is carried in the housing up on the handrails of a vessel. And, Lieutenant, if you could pull up Exhibit 114? These are going to be photographs of an unknown date from the EPIRB housing for the *Scandies Rose*. And I just want you to take a look at them for a minute and see if you see anything in those images that would not be part of a properly functioning EPIRB or rescue beacon or a radio beacon.

A. No. That's just, that's just a unit with hydrostatic release taken out, and it looks like they're probably changing the hydrostatic release there.

Q. And where would the magnet be?

A. Right up in the top corner. You see where that -- the handle there?

Q. Yes.

A. Up there on the right, left hand side in the plastic.

Q. So the magnet in these images is not present?

A. Yeah. You can see it in the other one a little bit, yeah. It's in the plastic molding there.

Q. Okay. It is in there.

A. Yep.

Q. Okay. Thank you, sir. So getting to my last area, talking about survival suits, would you talk about the servicing or the required servicing interval for survival suits that would be carried on the *Scandies Rose*?

A. Well, technically, they can service their own survival suits.

The manufacturer recommends getting them serviced every two years from a service center, but that's not required by the C.F.R. Now, if they fall under a SOLAS reg, you know, a SOLAS vessel, that would be every three years for a pressure test, and then after the ninth year, it'll be ever single year. For the U.S. Coast Guard, there's no requirement. The Coast Guard will say, we would like to follow the recommendations of the manufacturer, but they -- customers like the *Scandies Rose*, they could service their own survival suits. There's nothing saying that they have to bring them in, other than the Coast Guard says, we would like you to follow the manufacturer recommendations.

But as long as they change the flashlight batteries out, they go through the survival suit and make sure there's no tears, no issues with them, make sure the main zippers all work properly, you know, go through the whole suit, log all the -- you know, log information or something, something they can show that, yes, we went through our survival suits. But the Coast Guard recommends two years, four years, and then every year after that. That's what the manufacturers and that's what the Coast Guard tries to tell them. But there's nothing stopping them from servicing their own survival suits.

Q. So if a vessel of the United States was inspected and classed as a SOLAS vessel --

A. Yes.

Q. -- they would require you to do a pressure test?

A. Yep. We have a lot of foreign vessels that come to port, and SOLAS regulations is every three years, and after the tenth year -- or after the ninth year, it's every year after that. So, you know, some of the guys will just buy new suits, but on any SOLAS vessel, it is every three years they have to get pressure tested. Yes, sir.

Q. So size of suits, could you tell me the different sizes of survival suits?

A. Yeah. So there's a child suit that's up to 4'4" and up to 90 pounds, I believe; then there's an intermediate that's up to 180 pounds at the 5'7"; then there's the adult that is up to 330 pounds, up to 6'3"; and then there's a jumbo suit for anybody that's over 6'3" and over 330 pounds. Now, let's say you have a guy on the boat that's 7 feet tall, 500 pounds. He can fill out a form and have a special suit made for him, but he will -- and then that would be a custom suit, and they do do that, but it takes about 16 weeks. So it would be four different sizes.

Q. So how important is it that the suit fits the wearer, and are there manufacturer recommendations for that particular sizing?

A. Well, I mean, they put ankle straps so that way -- let's say you have this really short guy in a survival suit, and the legs -- you're stepping on the legs, so you could fall. So you pull up your, you pull up your legs, they make an ankle strap that goes onto the leg so that way you've still got a firm surface so you're not tripping over yourself.

But, I mean, you would want to try on your suit. You know it fits you. So if you have two minutes to get this suit on, you know it will fit you. Because what you don't want -- let's say they're running a drill, and they're not paying attention, and they stick a jumbo suit that's in the green bag, not paying attention, they stick it in a little intermediate bag, a red bag. So now you have an emergency situation, and you're going to get off the boat, you grab your green bag, right, and it has a little tiny suit in there. You're done.

Because that's why, when we run the drills on the vessels, I tell the guys -- because we actually do a lot of survival suit pressure testing, and I talk to a lot of the customers. I say, it's extremely, extremely important, mostly on the bigger vessels where they're doing a drill and they have 50 people -- well, they have 50 people trying these suits on. Well, some guys are big; some guys are small. They have a serial number on the bag itself. Make sure that serial number goes in the exact bag that it came out of, because if there was an emergency, and they stuck an intermediate suit in a jumbo bag, and you had a guy that's 6'4", 350 pounds, he ain't getting in that suit. Even though it's in a green bag, it's in the incorrect bag.

And that is why there is still, today, some manufacturers that don't -- they made their bag all red, and they have a little box in it, a little square box, and you check if it's a jumbo, an intermediate, or adult. Well, you're not going to have time at 2

o'clock in the morning to get out and look with a flashlight, is this, is this going to fit or not. That's why the colored bags is very important.

And then, like I said, another very important thing is, is making sure that the correct suit is in that bag, because they're running drills all the time, you know, and they don't think it's important. Oh, you know, I just ran a drill last week. I'm just going to shove it in. It's very important they pay attention to this, because at 2 o'clock in the morning, if you didn't have the right suit in the right bag, it can be a problem.

But like I said, there is one company that I know of that makes a survival suit, they're all red bags, and it has a little square where you'd say jumbo, intermediate, or adult. That is not adequate at all. But, you know, that's the only survival suit I've seen with it. But I believe, you know, like I said, that's very important.

Q. So at night, is there any way if somebody took the suits out of the bags and dumped them on the, on the pilothouse deck or the wheelhouse deck, is there any way I could identify what suit was what in terms of size?

A. Yeah. On the, on the corner of the suit, it'll say adult, jumbo, or intermediate. Now, if it's intermediate, you're actually supposed to write the name of the person on that suit, on that suit to make it a Coast Guard approved, on the intermediate only. Also on the, I believe -- I'm not sure if it's on the bag,

but on the suit, you have to write the name of the person that it's linked to so that way they don't get the wrong suit.

Q. Is that applicable to fishing vessels to your knowledge?

A. Yes. Yes. That's on all vessels.

MR. FAWCETT: So the last thing I want to show, and I'm -- this is -- I don't have any particular questions for it, but I think it would be informative, is Coast Guard Exhibit 102, is a video of a survivor donning a survival suit. It will show the -- someone who's put on a survival suit before and is familiar with them. So we'll run that, and if you have any observations, please make them, and that will conclude my questioning.

(Exhibit 102, recording of Dean Gribble Donning Immersion Suit, plays.)

BY MR. FAWCETT:

Q. So just a final question -- and thank you very much, Mr. Simmons, for your explanation. But the black band around the upper torso in that short video, what is that black band and what's the purpose of it?

A. So what they would do is they would blow into that. There's a little one-way valve. They'll take their hand and they'll blow into that. That basically creates a cushion that goes around here and around their back, so when they're laying in the water, they're not down so deep the waves are coming up and splashing them. It's kind of like a back support to keep their head so that way they can kind of see what's going on, you know, looking for

people if they were laying out there for multiple -- you know, for a long period of time.

Q. Could you just point on your upper shoulders where the light would be?

A. It would be right here in the corner.

Q. Okay, sir. Thank you very much.

MR. FAWCETT: I'm done with my questions, Captain.

CAPT CALLAGHAN: Thank you, Mr. Fawcett.

Sir, I'm just going to pass it over to my colleagues at the National Transportation Safety Board to see if they've got any follow-on questions.

THE WITNESS: Yep.

MR. BARNUM: Thank you, Mr. Simmons. This is Bart Barnum. I do have one question for you, it's on Exhibit 014, Lieutenant McPhillips. And I'm sorry, I didn't forewarn him, Lieutenant McPhillips, though he's taking a couple -- an extra couple seconds to bring it up.

THE WITNESS: No problem.

MR. BARNUM: All right. So page 17, please, sir. All right, Lieutenant, if you could scroll down to the second photo on this page and zoom in.

BY MR. BARNUM:

Q. So, Mr. Simmons, this is the, this is the screengrab from the ROV survey of the *Scandies Rose*. This is showing the EPIRB housing and bracket. Can you tell by looking at this picture if

the EPIRB was hydrostatically released or removed manually?
A. I can't tell, but -- that EPIRB was definitely removed from there, but I can't tell if it's -- you would probably want to check with the manufacturer, but I can't tell, because I don't know if that looks like what the bolt would like if it, if it broke free, you know, if the hydrostatic release kicked free. I've never seen one, you know, launched underneath the water, so that could possibly be the bolt of the part of it releasing the hydrostatic release, if you know what I mean.
Q. Yeah.
A. Because I think it's a two-piece setup, and so when it releases, it pops free. And that right there, you see that little black, that could be the second part of the hydrostatic release, so it did kick the EPIRB free.
Q. Okay. Well, let me ask you this. If it was to be removed manually, and then, once the vessel sank, the hydrostatic release triggered, would it still -- could it still look like this?
A. Yes. Yeah, because what they would have did is took the EPIRB out and took it with them, and then once the vessel goes down, the EPIRB release would kick free.
Q. All right. Okay.
MR. BARNUM: Thank you, Mr. Simmons. That's all the questions I had.
THE WITNESS: Yeah, no problem.
CAPT CALLAGHAN: Thank you, Mr. Barnum.

Mr. Simmons, I'm just now going to pass over to our party in interest, counsel for the two survivors.

Mr. Stacey?

BY MR. STACEY:

Q. Good afternoon, Mr. Simmons. Can you hear me okay?

A. Yep.

Q. Awesome. Thank you very much for your testimony. It's been very, very helpful. Looking at the products that -- you know, the life vest, the immersion suits, the canopies and everything, is there, is there anything that you think -- you discussed earlier what is not necessarily mandated, required by law, but sometimes that we put in. Do you find with your customers anything that is frequently requested that is not currently mandated by law?

A. What do you mean, like buying extra stuff?

Q. Yeah. If, you know, special add-ons that aren't required on an immersion suit but, you know, people will frequently request it?

A. Yeah. I mean, some people request PLB, EPIRBs. And, you know, they can, they can put it in their survival suit, but then let's say they go hiking or skiing or snowmobiling, they could, you know, they could put it there. They can use it for multiple use, so it's not only like it's going on their survival suit. That would probably, that -- I would probably say that's the most requested on a survival suit, you know.

And then inside the liferafts, some people will ask for a

little bit more food, more thermal protective suits because, you know, they just never know, you know, if they can get their survival suits on. But yeah, but, you know, some people will go put some extra expired. No, no, it cannot be expired. It has to be good, you know. But that -- the survival suits, PLBs, it's a pretty good idea.

You know, and then a lot of people will say, hey, is my, is my liferaft hooked up correctly? They'll send us a picture real quick. Yep, you're golden, you know. Or they'll say, can you come out and install it? We don't install the liferafts, you know, putting them on the vessels and pulling them off. They can do that. They have the crew. You know, they just ask us, hey, is this, is this legit? Yep, that's good. Or oh, no, no, no. You hooked it up incorrectly. Okay, perfect then, glad I called, you know.

Q. Got you. So is there -- I know you said that you have customers who will ask for it. Is there anything that, you know, that you believe should be mandated by law that isn't currently? You think that -- you know, I just think that we should require it?

A. It's like, in the *Scandies Rose*, the rafts worked exactly how they were supposed to. The vessel sank. It sank very quickly. They're floating on the surface. Oh my god, what is, what's happening. They don't even know what's happening. The liferafts pop up to the surface. I've had a lot of customers that have sat,

you know, in -- like I said, my father started 38 years ago. I've had a lot of people, 2, 3 in the morning, sitting there going, oh my god. And the raft pops up out of the thing.

If those rafts are not correctly hooked up, they -- if they don't got their survival suits on, they're toast. And I've had it happen many, many times. We've been very fortunate, you know. I did have one customer tied off to a railing. They got in the liferaft, and it was such a quick response, they weren't -- they didn't know any better. They thought there was a weak link on to the liferaft. It sank. They all jumped out of the liferaft. One person died because it was -- they didn't have any survival suits. It happened so quick. It was an old steel boat. And the raft was so high, so they just didn't know.

But someone verifying that those hydrostatic releases are hooked up is -- it's like a parachute. If, you know, you have the parachute on, if the strings aren't connected, it doesn't matter. And it's, it's very -- you know, we go through all this, perform -- you know, we go all, CO2 bottle, you know, make sure absolutely that raft works correctly in an emergency. And very few get used, but the ones that get used absolutely have to be correctly hooked up. And that's the only thing that actually worries me, because like I said, I know a lot of these people, and if they have their kids or whatever and that raft didn't pop to the surface, they're going to blame me, and I'm going, I don't know how it was hooked up, you know.

Q. Yeah. How easy is it to confirm that it is hooked up correctly?
A. It's very, very easy. All it has to be is a snap of a picture.
Q. Perfect. Thank you very much, Mr. Simmons.
MR. STACEY: Captain, those are all the questions I have.
CAPT CALLAGHAN: Thank you, Mr. Stacey.
And now to counsel for the vessel owners, Mr. Barcott?
MR. BARCOTT: Thank you, Captain.
BY MR. BARCOTT:
Q. Thank you, Mr. Simmons. Can you hear me all right?
A. Yep.
Q. So I'm Mike Barcott. I represent *Scandies Rose*. I've just got a couple of questions for you.
A. Yes, sir.
Q. So the testimony from the survivors is that when the *Scandies Rose* eventually went down, it bow up in the air, went down by the stern, the stern first. The information is also very clear that the EPIRB was on the stern of the boat. It was on a stern rail. So as the boat's going down by the stern, if that EPIRB pops because of the hydrostatic release, are there things that can get hung up in all of the rigging that is in the water column above it?
A. Yeah. I mean, it can get, it can get stuck anywhere. It's meant to float to the surface. I've had them where they've got --

where the back of the house comes over a little bit, and I've had them stuck there, you know, and not went down. You know, hanging up on a line, you know, if it's a line, it's going to, it's going to go out and it's going to top up. The only thing, if it has a surface that's back over there -- and I've had them put it out there. They're like, it's really nice. I can just go out and grab it right out beside the door. But I'm like, yeah, but if the boat goes down, it's just going to sit there, and that's the only thing. I mean, it's very possible that it could have got hung up that way.

Q. Yeah. And if it's trapped underwater, it doesn't send out a signal, right?

A. No, sir.

Q. Okay. So I want to talk about icing and boats that might fish where there's sleeting ice, there are ice storms, and it coats the gear.

A. Yeah.

Q. Is there anything in the housing for an EPIRB that allows it to release if that housing has been covered with ice?

A. No, sir. No.

Q. Okay. Has anybody ever talked with you about that? That, that might be a good idea to figure that out?

A. So up in the Artic, if a, if a vessel is operating up by Prudhoe Bay, and there's a longitude and latitude up there, they have a -- it's a blanket that they put over the liferafts, it's a

thermal blanket, because what has happened is some of these vessels that have been inspected, the liferafts are like a brick of ice.

Q. Right.

A. And they banged on them, you know, they come in. The problem is they don't want to beat the hell out of them with the hammers, with the sledgehammers. But it's gotten so bad that they froze up. They're an ice cube. So until that thing de-thaws or all that ice is broke off -- but there is a part up there that they do require -- I believe it's under SOLAS regulation; I don't know if it's under Coast Guard -- that they make a thermal blanket. If they're up there, they have to have this thermal blanket on the liferafts. EPIRB, I'm not sure. But I know on the liferafts, up in certain areas like Prudhoe Bay and stuff like that, if they're operating, they're required to have those blankets on the liferafts.

Q. I want to turn just very quickly to personal locator beacons. That little thing you wear.

A. Yep.

Q. Those are not Coast Guard required, are they?

A. No, sir.

Q. Okay. Thank you, Mr. Simmons. We appreciate you being here.

MR. BARCOTT: Those are all the questions I have. Thank you, Captain.

CAPT CALLAGHAN: Thank you, Mr. Barcott.

So, Mr. Simmons, I have one last closing question, and that's regarding functionality and usability and the feedback mechanism for folks that have survived and had to use some of this gear. Is there a good feedback loop, particularly in this case, I'll use the example of survival suits, and you mentioned, you know, how getting in the liferaft, you could -- you may have different areas in each liferaft where the knife might be located. But talking like the functionality of trying to get in there in a survival suit and really fumbling around with the bag and the gear in that liferaft with your gear, with that immersion suit on, is there a mechanism to provide that kind of feedback to the company for improvement?

THE WITNESS: Like I said, if you're in that survival suit, I would go to the -- I recommend the asset manufacturers put a survival suit on and show me how you use -- get to this -- access to this equipment. I mean, you're in survival suits, it's 2 o'clock in the morning, you're freezing, you're trying to get -- you know, it's very hard. Then, once you open the bag, where do you even know the equipment is at? I mean, there's a lot of equipment in that.

Some liferafts have separate -- one is food and water, one is supplies. Is it labeled? No, but you can -- you know, I know from the weight and stuff, but if they open it up, they see it's food, you know. Maybe a better thing is one labeled food and water, one's labeled supplies. And maybe the water not so much,

but the supplies. Maybe something that it's like a clear bag that they can at least kind of see what they're going to grab, you know. I need the flashlight. They can see what they're grabbing inside there.

Because, you know, if it was me, and it was 2 o'clock in the morning, and I've got my survival suit, I'm taking that stuff out. I need to see what's going on. I'm dumping it out. Now I've got debris all over the liferaft, and now I take a wave and the thing's full of water, the liferaft is not sinking because they are 100 percent overload capacity, but there goes -- floats all my equipment out before I even close the door up, you know. So maybe by -- maybe a clear bag for maybe just the parts, you know, for the stuff that you would use. Then the food and water, you know, it can just be labeled food and water, you know. That's if you're out there for multiple days, you know, and then you've got the next morning to worry about that or -- you know, you're not, you're not, oh my god, I need some food and water right now.

But knowing where the parachute rockets, you know, you see a plane, you're seeing something, you don't even know where your rockets are. You're having a hard time, fumbling. You know, those -- the mobility of a survival suit is not very good. But then they make these other survival suits you can get at your hand access. Well, your hands and your head, it's huge. You can get -- your hand will cramp up, and you can't even move it. So the suits are -- you know, some of those suits are a good idea if

they're right on the vessel and try to change, but if you're inside the liferaft, you could be cramped, and you can't even use your hands.

So I would make it so, if you had a survival suit on, show me how you access that equipment. And as long as they show you how to access the equipment, they pass it on to me, or they pass it on to the schools. So then, when the schools are saying, hey, how do you -- once you get in this liferaft, what do you do next? Well, you get the equipment. Well, how do you get the equipment with a survival suit on? Well, I don't know. And so here's how. This is the procedure. You do this and you do that.

And you've got to remember, because people aren't thinking they've got a gumby suit on. And as you could see with that last -- the guy that was showing you how -- you know, the survivor that was showing you, you know, he was in that survival suit. It's not very comfortable, and it's very hard to access stuff, you know.

CAPT CALLAGHAN: Yeah. Well, thank you for that. I really appreciate your time. We greatly appreciate it. I know we kind of kept you a little long, but the value of what you do and the message about survival gear, the importance of keeping things not only in serviceable condition, but, you know, installation and all the rest of it and how important that is.

So thank you for your time today. At this point, you're now released as a witness from this formal hearing. Thank you for your testimony and cooperation. If I, at a later date, determine

that this Board needs additional information from you, I'll contact you through -- or contact you directly. If you have any questions about the investigation, you may contact us through the investigation recorder, Lieutenant McPhillips.

THE WITNESS: Okay.

CAPT CALLAGHAN: Thank you very much sir.

THE WITNESS: Not a problem. Thanks to you guys. Are we all good?

CAPT CALLAGHAN: Yes, sir.

THE WITNESS: Okay. Thank you.

(Witness excused.)

CAPT CALLAGHAN: The time is 1434. We're going to take a brief recess, and we will start with our next witness as soon as possible.

(Off the record at 2:34 p.m.)

(On the record at 2:47 p.m.)

CAPT CALLAGHAN: The time is now 1447. This hearing is now back in session. We'll now hear from Mr. Scott Giard of the 13th Coast Guard District.

Mr. Giard, Lieutenant McPhillips will now administer the oath and ask you a few preliminary questions.

LT McPHILLIPS: Please stand and raise your right hand.

(Whereupon,

SCOTT J. GIARD

was called as a witness and, after being first duly sworn, was

examined and testified as follows:)

LT McPHILLIPS: You may be seated. Please state your full name and spell the last name.

THE WITNESS: Scott Jeffrey Giard, G-i-a-r-d.

LT McPHILLIPS: Please identify counsel or representative if present.

THE WITNESS: Lieutenant Commander Matt Pekoske.

LT McPHILLIPS: Counsel, please state and spell your last name as well as your firm or company relationship.

LCDR PEKOSKE: I'm Lieutenant Commander Matthew Pekoske, P-e-k-o-s-k-e, Coast Guard Judge Advocate and witness counsel to Mr. Scott Giard.

LT McPHILLIPS: Mr. Giard, please tell us, what is your current employment and position?

THE WITNESS: I'm employed by the United States Coast Guard, specifically the 13th District in Seattle, Washington, where I am the Search and Rescue program manager.

LT McPHILLIPS: What are your general responsibilities in that job?

THE WITNESS: I oversee the Pacific Northwest SAR mission. I provide expertise in SAR, consultation and advice to leadership, coordinate efforts and enhance our incident preparedness across the Pacific Northwest, as well as I'm SAR mission coordinator and official exercising ASSA authority.

LT McPHILLIPS: Can you briefly tell us your relevant work

history?

THE WITNESS: Yes. I've been D-13 SAR program manager since 2016. Before that, I worked with the Coast Guard up in Juneau, working Search and Rescue from 2006 to 2016. Prior to that, I was on active duty and reserve components of the Coast Guard as a boatswain's mate and operation specialist from 2000 to 2006.

LT McPHILLIPS: What is your education related to your position?

THE WITNESS: I've taken many courses with the National SARs school, resident courses there in the Maritime New England SAR, courses with the National Association of Search and Rescue, Federal Emergency Management Agency, and other courses with the International Association of Emergency Managers.

LT McPHILLIPS: Do you have any professional license or certificates related to your position? Please explain if so.

THE WITNESS: No.

LT McPHILLIPS: Thank you, sir. Captain Callaghan will have follow-up questions for you.

CAPT CALLAGHAN: Thank you.

Mr. Giard, I'm now going to turn it over to Commander Karen Denny.

Commander Denny?

CDR DENNY: Thank you, Captain.

EXAMINATION OF SCOTT J. GIARD

BY CDR DENNY:

Q. Good afternoon, Mr. Giard.
A. Good afternoon.
Q. All of my questions are going to be either directly or indirectly related to the timeframe leading up to sinking of the *Scandies Rose* on the evening of December 31st, 2019, and subsequent Coast Guard rescue efforts.
A. Okay.
Q. So again, really appreciate you being on the line and attending this hearing virtually today. If at any point you're asked a question that you don't understand or you can't hear because of technical difficulties, please don't hesitate to say so, and we'll repeat or rephrase the question. In addition, we'll be taking breaks throughout this hearing, but if you need a break, please let us know.

Also, using the Zoom platform, we have the ability to share the exhibits. And you have prepared a presentation in advance of this that the Board has reviewed, so we'll be pulling that up, and just please tell the recorder, Lieutenant McPhillips, to advance the slides if -- when you need to.
A. Okay.
Q. So, Mr. Giard, you've given us a brief introduction of yourself as well as your primary duties and responsibilities. Is -- would you like to elaborate in any way on your primary duties and responsibilities for -- as the D-13 program -- SAR program manager?

A. Sure. Yeah. In addition to being one of the SAR mission coordinators and persons -- officials exercising ASSA authority, or active suspension authority, I provide expertise and subject matter expertise in SAR case consultations and advice to senior leadership, usually at the division officer and the admiral's level.

I advise headquarters on issues pertaining to the D-13 AOR, as well as weigh on national level SAR policy issues. I'm one of the liaisons and subject matter experts of the International Civil Aviation Authority and the International Maritime Organization. I provide awareness of D-13 priorities and concerns and needs to various entities when it comes to supervising policy, but I also maintain the Seattle Search and Rescue plan.

I act as a subject matter expert and review all changes and updates to D-13 catastrophic incidents SAR plan and the need for DSF 9, as well the liaison to FEMA region and for DSF marine. I administer the district's program for cost pass SARSAT and manned space flight programs, but primarily the liaison for Search and Rescue for all local, federal, state, tribal, Canadian and other foreign rescue coordination center activities.

And then I provide training to all of our joint rescue coordination center advancement personnel throughout D-13 on SAR matters as they come through, and I also develop and oversee and administer the ASSA and SMC program when it comes to training for the district.

Q. Thanks, Mr. Giard. I really appreciate that. And I forgot to mention this at the beginning, but there is such a tendency for us to use acronyms within the Coast Guard because we know and understand what's in the mission subset, but for the benefit of the Board and the webstream audience, I would ask that you please avoid and not use the acronyms moving forward.

A. Yes, ma'am.

Q. Thank you. So I'd like you to take a step back and just for our benefit just explain briefly how the Search and Rescue chain of command works and how does it -- how would that have worked during a wintertime Search and Rescue case off of Sutwik Island.

Q. Sure. The SAR chain of command is kind of an intertwined web of kind of a multitude of people. But while there are quite a few people involved in the process, they all have kind of roles and responsibilities and the reason why kind of certain people intertwine.

At the top of the SAR chain of command is the SAR coordinator. Each Search and Rescue region has a SAR coordinator, and in the Coast Guard, we assign the district commander who is also the SAR coordinator for his Search and Rescue duty. So Admiral Bell is the North Pacific Search and Rescue Region SAR coordinator, and his staff provides top level review, oversights, and ultimately suspension for people and search subjects that end up not being found. As provided here, (indiscernible) in the Search and Rescue program and just make sure that folks doing SAR

operations have what they need while they're conducting it.

The next level down is the SAR mission coordinator. SAR mission coordinators essentially are the managers of any Search and Rescue case. Many carry up Alaska supplementing, coordinating, and arranging the actual response to Search and Rescue incidents. We assign them at various levels of our organization, and D-17, which is our district in Alaska, there's two -- there's three units that can assume SAR mission coordinator. There's two sectors, the one in Anchorage and in Juneau, as well as the district office, and they all have the ability to assume SAR mission coordinator because they have distinct areas of responsibility. And that's the primary why and when.

There's some other circumstances of why I assume SMC in each others' areas, but it's little -- that's a little outside of this. I can answer it if that comes up. But that's you see who really carries out the functions or support of command center or the rescue coordination center watch standards and really make sure that everything is being carried to make sure that the SARUs ultimately get on scene and rescue and search for people.

And then the final of the SAR command, just below the SMC, are the Search and Rescue units and the on-scene coordinators. And they're like the pointing end of the stick, so they're the helicopters and boats and planes and cutters and folks that we actually send out and do the searching and rescuing. They have

very specialized training in what they do, and they all report to the SAR mission coordinator. Sometimes they are the on-scene coordinator where the SAR mission coordinator just kind of gives them the plan on what, on what they're up to during the specific time period, which we call an EPOC, and yeah, so that's how it kind of works.

Q. Okay. And so could you describe how -- can you describe the duties of that Search and Rescue mission coordinator and also the person that exercises what you called ASSA, which is active search suspension authority?

A. Sure. Yeah. Our SMCs, or the SAR mission coordinators, are generally people that have a wealth of knowledge. They have experience -- there's experience level requirements as well as prerequisite training requirements to either perform the designations -- they're generally designated either by community and officer of the units or the SAR coordinator him or herself. And after they have shown that they have the requisite experience and knowledge and skills, they're, you know, the ones that take information from our community centers and rescue coordination centers and formulate the plans for search and/or the rescue of individuals.

The official exercising ASSA authority, or active search suspension authority, generally are senior folks in our organization, either usually O-5/O-6 on the military side and GS-13 or higher on the civilian side, that are specially trained

and designated only by the SAR coordinator to suspend active Coast Guard operations and searches while the search object or persons are still missing. So there's a case where searching for folks ends and we get to a point where the survivability is negligible or we've exhausted our resources, it's the official exercising suspension authority's ultimate authority to decide when and how we're going to suspend those activities.

That's done in consultation with the chain of command generally as well as next of kin, local agencies, any other agencies that are participating. We generally get a good sense then about how the media has played into a case. There's a lot of factors that go into suspension, but really survival and next of kin are the two primary factors that weigh in on whether or not and how we're going to suspend active searches.

Q. Okay. So let me, let me check this a little bit. How does the Search and Rescue mission coordinator or the regional command, command center controller communicate to the Search and Rescue units to launch in order to assist mariners who are in distress?

A. Yeah. That's several ways. So at our sector command centers, specifically the ones in Juneau and Anchorage, but very similarly at all of our sectors throughout the United States Coast Guard, we have a vast radio network and phone network. Usually, primary alerting is done via phone, and then sometimes the unit leader has what they call a SAR alarm. It's even a button, and it sends a signal through the ready unit to alert them that there's a

Search and Rescue case.

The command center or joint rescue coordination center controllers will then convey kind of a situation report to the Search and Rescue units' leaders and let them know kind of what's going on, where the case is, and what they might expect on scene, do some risk managements and kind of get things moving and find out how long it's going to take for them to get either in boat or airplane or helicopter and get airborne to start either searching or rescuing.

And then, yeah, it's usually done by phone, or sometimes if the unit's already airborne, underway, we can do that via chat, via to the ship or we can do that via radio if they're, if they're already up. And then we can divert them while they're already in the air.

Q. Okay. So what's the Coast Guard's general posture when it comes to launching assets for Search and Rescue cases?

A. Generally, the Coast Guard has a very forward leaning process, or forward leaning stance on launching resources. There are response standards that are used mostly for metrics, but there are two response standards: one is a 30 minutes to become either airborne or underway once you've been notified from a -- as a Search and Rescue unit, and then there is a 90 minutes from when you launch to arrive on scene standard. And those can be affected by a multitude of factors: weather, planning, risk management discussions, mechanicals, et cetera.

They are, I would say, generally pretty well met within the Coast Guard, but there are certain instances where they're not able to be met or they just aren't met due to other circumstances. But it is an expectation that the SARUs are point and ready to go. We do have -- generally, if they're in a Bravo-0 status, which essentially means they can get underway within 30 minutes, those guys are poised and ready to go. They can wake up, get their stuff together, get the boat or airplane started, and get airborne or underway within 30 minutes. Yeah.

Q. Okay. So we'll touch on that in a little while.

A. Okay.

Q. So let's shift a little bit to what are the ways that mariners can make the Coast Guard aware that they're in trouble, that they're in distress?

A. Sure. There are a multitude of ways that mariners can let us know that they are in distress. The first is radio systems, whether it be VHF, MF, or HF -- high frequency, medium frequency, voice -- we have coast stations that monitor those. They can also let the -- let us know through a system called digital selected phoning, which is a -- it's a digital packet of information that essentially sends us a VHF, MF, or HF alert that's not voice to one of our coast stations that's encoded with their VHF information and their GPS location, if it's hooked up to a GPS.

They can also let us know via a multitude of satellite systems, and MARSAT and Meridian are two of the primary used for

distress alerting. They both have distress alerting and phone features. That Search and Rescue satellite, called the SARSAT system, is an international system with emergency beacons that the vessels have either an EPIRB, DLT (ph.) or PLB onboard that sends that off. It goes up to a satellite and lets us know that they're in distress.

And then there's also the last satellite is called SEND, which is satellite emergency notification devices. These have come online in the last like 15, 20 years from -- you might have heard of them, like it's inReach or SPOT. There's some others called Somewear Global, Yellowbrick. They're commercial products that don't go through the SARSAT system. But they do have the ability to send distress and non-distress alerts and use some kind of autonomous tracking of vessels, those odd various kind of modes for transmitting the information. A lot of times, they're primarily used to send the information to a family or like a person holding the float plan.

And then there's always the phone, whether it be cell, SAT, or landline. We have a lot of -- just looking at significant amount of our distress calls, more than 50 percent through cell phones and landlines still.

And then lastly are the distress signals, which are like flares, guns fired at one-minute intervals, the international ones, like a mayday on the radio, parachute flares, November Charlie flags, et cetera.

So if any of those -- if we hear about any of those happening or we are alerted on any of those methods, that generally activates the SAR system and gets moving -- and at least gets us starting the best way how we can help somebody out there.

Q. Mr. Giard, so you mentioned quite a long list of ways that a mariner could indicate distress. You mentioned satellites, so that's for the global positioning system, right, GPS, and is that how the EPIRB would send the distress signal? Because we've heard about EPIRBs in previous testimony.

A. Yeah, so EPIRBs can have a GPS chip embedded into them. It's an added feature that essentially encodes the GPS -- a GPS position into the packet of information that the EPIRB sends up to the satellite, and then, when that's received through the system -- and I can briefly describe the system if you want -- instead of the satellites using Doppler to try to figure out where the signal is coming from, it actually just takes the GPS encoded position and plots it for us instead of the satellite trying to figure out where it is.

Q. So based on your experience, your Search and Rescue experience, could you offer up some thoughts on why -- for a vessel that's carrying an emergency positioning indicating radio beacon and encounters a distress situation like a capsizing or sinking, what are your thoughts on potentially why that beacon would not activate or report to the system?

A. Improper maintenance. Batteries, if the batteries are not --

if it's not being serviced and the batteries are not being taken care of, or the hydrostatic releases are not being serviced, that could certainly hamper the ability for the EPIRB to automatically deploy, or even if manually deployed, if the battery's depleted or there's an issue that it wouldn't go off.

I've seen instances where training takes the EPIRB out of the bracket manually or they're told that -- there's many, many vessels that are -- have kind of an SOP of taking the beacon out of the bracket and then having them take it with them to the liferaft as opposed to just letting it float free with hydrostatic release. And I guess if the person was inside the vessel or the beacon was left inside the vessel or something like that, you know, it wasn't able to float free, then it wouldn't be able to transmit. It might -- it would certainly activate underwater, but the signal would never reach the satellite because of being, you know, surrounded by like a pilothouse or something.

And then sometimes EPIRBs -- I've seen some pictures of EPIRBs getting caught in debris, so they do float free, and then when there's a multitude of debris, they can get caught. I've even seen a picture of a vessel kind of on its side on a ladder, and the EPIRB got like stuck in the ladder as it was trying to go up. It was activated, but it just never reached the surface. So those are some of the kinds of things I've seen in the past on why a beacon wouldn't activate.

Q. Okay. Thank you for that. I want to shift just a little

bit. Can you describe the Search and Rescue radio systems that service the West Coast? If you could, please elaborate on who listens to it and just elaborate on the importance, specifically in Alaska.

A. Sure, yeah. We have a few different radio systems that the Coast Guard uses. In the continental United States, we have -- and Hawaii, we have what's called Rescue 21. It's a VHF terrestrial radio package that we purchased from General Dynamics for Sea Area Coast 1, Sea Area 1 coverage. It's got pretty darn good coverage in the continental United States and Hawaii. But that system wasn't feasible to be deployed in Alaska or the western rivers, so the western rivers in Alaska had separate projects that were completed, but they were not -- while they were called Rescue 21 Alaska or West Rivers R21, they were not the same robust system that was put on the rest of the contiguous U.S.

There is VHF coverage in Alaska. It's based on legacy towers that were already there. Some of the equipment was upgraded by a large contract with, I believe, Motorola several years ago and -- but there has been -- I know that there at least recently has been a lot of trouble maintaining the sites on time kind of response. (Indiscernible) has been low just for tons of issues, generate issues, logistics, fueling, snow, all those antennas are up at the very high mountain levels and are very difficult, and they have propane backups and microwave systems, and they're very difficult to maintain, whereas the towers that are in the lower 48 are

generally on like cell phone type towers and pointing -- just kind of looking just out to the coast, and they're much easier to maintain.

But VHF is just one, and those are listened to by our sectors. So our sectors have a communications unit within them, staffed by operation specialists generally that are trained in listening and responding to radios. The folks at Sector Juneau and Sector Anchorage take care of the VHF comms in Alaska. Comms are pretty decent, I would say, kind of Southeast Alaska, Prince William Sound, Anchorage, and Kodiak. Not as robust as the lower 48 at all, but there is coverage.

And then there's the communications detachments in Kodiak who works for our communications commands, has a few other radio systems. They still listen to high frequency radio as well medium frequency. A lot of just -- a lot of people have sidebands. While it's not used a whole lot, it is, it is still used. We still do have cases in which, like the *Scandies Rose*, that was kind of the only alerting that was able to happen to the Coast Guard was on these, on these high frequency bands, and so those are, those are the -- and obviously we have SARSAT and MARSAT coverage in the area, and all those, all those alertings go up to the joint rescue coordination center in Juneau.

Q. Okay. So let's talk about the type of equipment, programs and tools that are used to plan Search and Rescue cases and the type of environment. Could you tell us about that, please?

A. Yeah. We just got a very robust software set that's call SAROPS, which stands for Search and Rescue Optimal Planning System. It's a graphical user interface, environmental data servers, simulation software, and even some mapping tools in a GIS program that allow us to simulate search objects in maritime environments over time and project where they either have been or can go to over time. We can also use the simulations to plan searches using the other side of the software called the planner.

We also have just using the local knowledge. It's really important, when we have training programs for our command center controllers and joint rescue coordination center guys, knowing the local area and having a local area knowledge is very helpful. We use weather sites models and forecasts. We use social media posts and other social media metrics to try to, to try to find information and plan. Imaging sources, we have other mapping tools, survival models, search object descriptions.

We have a multitude of SAR databases to include like driver's licenses, law enforcement intel databases to try to help us gather information on people so that we can help try to locate exactly where they are. We also have the ability to request cell phone and radar forensics from various agencies, and then we have a few different vessel and aircraft tracking tools and services, as well as in some areas we have like cameras, port cameras, radar systems and, again, use -- we use SAROPS. There's another function. We use SARSAT inside SAROPS as well in planning of Search and Rescue

cases.
Q. So you mentioned this SAROPS, right, this optimal planning system, and then you mentioned that you put in different variables to -- for this search object. Can you tell us about the factors that go into that please?
A. Yeah. So SAROPS is made up of a graphical user interface that simply makes it easy for information to put in and manipulated within the system itself, and then it uses environmental data servers to gather like wind and current and water data. And then what it does is it takes that information and puts it into a simulation software.

The simulation software, the simulation wizard takes -- what we do is we create scenarios, and so say there is a person in the water -- so there's a, there's a scenario for person in the water, and then we put in all the pertinent information, the last known position, other information about the person, and then we can build in other -- like that -- on the last known position scenario -- sorry, last known position of the person on the water. We can, we can then assign search objects based on a catalog of different items that we have in the toolbox to drift.

So essentially, we can -- in the software, we can drop different things in the water, whether it be a liferaft, a person in the water, debris, different size vessels, stand up paddle boards, surfboards, lots of different things. So we can drop all these -- we can use all these things, assign them, so if we have a

case where, say, a fishing vessel like the *Scandies Rose* capsizes, we could use the *Scandies Rose* itself, the description of that, we could use the *Scandies Rose*'s liferafts and we could use different descriptions of people. We have different types of people that we can drift, like if they're wearing a survival suit or not wearing a survival suit, they're wearing a life jacket, they're not wearing a life jacket. All of those things drift differently in the water based on wind and current data.

So essentially that -- we package all of that up, and then a computer simulation model downloads the environmental data for that -- for a very specific area that we're working in, say, you know, Sutwik Island. It draws a big box around Sutwik Island, and then it downloads the environmental data from different sources. We use sources -- like most of them come from the National Weather Service or the National Ocean Survey, some are from like other models, some are just tide current tables, some are commercial, and we have different ones that we can pick from.

And then, after the simulation wizard is completed, it actually completes a simulation where it drops these particles into the water and drifts them off. And then it drifts it over a period of time. So say, you know, something happens at 8 p.m. and your airplane is going to get there at 9 p.m. You can move the little dial, and what it will do is it'll move and animate the particles over time to 9 o'clock and tell you where each one of those particles might be in the water at 9 o'clock when you're --

as you arrive. So then you can create a plan with that helicopter, boat, or plane to search for those particles.

That's kind of a gist of how it works. There's lots of different types of searches.

There's also some metrics inside of SAROPS. It uses -- there's kind of three basic probabilities that it uses: probability containment, probability detection, and ultimately, probability of success. And those are measures for how well the computer thinks the search is going to be completed if we use certain sensors in certain conditions under certain weather. We put all that information in there, and then it gives us kind of these probabilities to see kind of how we do. And if the numbers are low, then we can manipulate the search or change things to try to even get them to go a little higher so we can, we can have a better time searching. Or if they're really low, sometimes maybe we just need to reallocate our asset to a different area so we can have a higher probability search.

Q. Okay. So I have a question about some of the variables that you're talking about. You talked about a couple of different factors that go into the function of, you know, determining the probability. Is there an assumption that the models are based on that differentiate between whether a person purposely enters the water as opposed to traumatically entering the water?

A. For search objects, no. The search objects really -- it just matters kind of how they sit in the water essentially. So like if

they use a person in the water wearing a survival suit, the simulator actually uses a model of a person kind of more laying back with their feet up, you know, in a laying position. So essentially their head is out of the water, but their body is in on the very top of the water. Not really into the water column all that much. So that person's going to drift a little bit differently than if a person just had a life jacket on, because then their head is out of the water but they're more in a vertical position. But it doesn't take into account like any severity of how that happened.

There are a lot of variables within search objects themselves like liferafts. Like with liferafts, there's -- you know, you can choose to have a liferaft have a drogue, have ballast and have a canopy, or any of the combination of those three. And if you choose not to have any of them, you know, that liferaft moves significantly faster than like a liferaft with a drogue and a canopy and a ballast.

But yeah, it doesn't, it doesn't really take into like if the liferaft is damaged or if a person, you know, was injured after they were in the water. We do take that into account when we're talking about survival, but it doesn't really drift any differently.

Q. So you just mentioned survivability. Does the Coast Guard have a tool that helps determine a person's survivability time in the water?

A. Yeah, we have a couple. The first is called the probability of survival decision area, or PSDA. It's an application -- it's really a dataset, but it's been made into a graphical user interface application, and we use it for all cases we know there's a person in the water, or where there is risk of hypothermia or dehydration when a person is not immersed in the water. Essentially, it takes environmentals like water temperature, air temperature, wind speed. And then there's ensembles of clothing built in. So we can -- there's like fall fishing outfits, we can choose survival suits, we can choose like summer -- like a t-shirt situation or fishing -- like a Gordon's fisherman outfit.

And then what it does is we can take the person that we've created and then submerge them in the water a certain distance. Basically it's like up to the neck is kind of the worst, and then we can tell how turbulent the water is. And then what that does is then it calculates out two numbers for water -- for people that are in the water: one is called functional time and the other is called survival time. Functional time is the length of time in which an individual can participate in self-rescue or take actions that are going to enhance survival or protection from exposure and cold; survival time is a time when the core temperate drops to 28 degrees centigrade, and below that threshold, the probability of death due to hypothermia significantly rises. So we sort of associate the survival time with an ability to not self-rescue anymore.

And we use these -- you know, it helps our communities and our ASSA authorities and SMCs kind of understand one factor of what we're searching for. The model itself does not take into account what's called the will to live. It's a widely researched human instinct that if a person wants to live, its times are way longer, especially under duress or in life threatening situations. So, you know, we have -- you know, really more so in warm water environments that you see people like on these rafts that are, you know, out to sea for 150 days, and we come upon them and, you know, they have like a -- they've been living with a -- living with just nothing or just eating fish out of the water situation.

And then we do have some hypothermia tables. We do treat -- we do make sure we have a pretty robust hypothermia program within the Coast Guard and make sure our folks understand what hypothermia looks like and how that -- what turbulent water hypothermia does and different aspects of survival. But those are kind of the main, the main ways that we kind of figure out and understand how people might survive in the water. And it's based off like an Army research model itself.

Q. Okay. Thank you. That was very thorough, and I appreciate it. So I'd like to shift just a little bit and I'd like for you to tell us a little bit about what a case review process is. What does that mean and what does it entail?

A. Okay, yeah. A case review process -- there's two. The Coast Guard has a case study and review policy that was updated in 2020

after a long working group session. It had been about 30 years since we updated the policy. It was actually finally updated in 2018. It's been around. But essentially it provides a mechanism to voice and document things, cases that would improve the SAR system. Effectiveness and continuous improvement of the SAR system is a super important thing to the SAR system.

If we could know, just like kind of how the Marine Board -- if the Marine Board is trying to find things that could prevent an accident from happening again, and we're trying (indiscernible) the SAR system, it's similar, which is an abbreviated process that informs the SAR systems from any level. Whether you're a boat driver, a rescue swimmer, a planner, anybody within the SAR system can inform, you know, the SAR chain of command of either how the SAR system is working well or not working well and how it can be improved. And that's usually through someone creates an opinions recommendation based off a specific dataset that's being looked at.

The SAR case study process is a very onerous study. I mean, it's an objective analysis that stems from the execution of a specific SAR case and requires kind of analysis -- a top to bottom analysis of the case and the SAR system around the case.

There is an abbreviated version that's called SAR case review that can be used instead when there is a limited scope that the person who is initiating the review wants to look at. Instead of a kind of top to bottom review, they can just look at one or two

aspects of the case, whether it be good or bad, to expedite getting information into the SAR system. The goal is to try to get the information to the people that do SAR kind of as fast as possible. Sometimes it takes a really long time, and the longer it takes the information to get to the people, you know, the longer the people have to actually do that -- you know, take those on, those recommendations. So a case review is kind of the most expedited means of doing that, and there was a case review done by D-17 for the *Scandies Rose* case.

Q. Very good. Thank you. Because that was going to be my next question. So I'd like to focus from the more overarching Search and Rescue topics that we've been covering here to your connection with the *Scandies Rose* marine casualty and Coast Guard response. So, Mr. Giard, where were you on December 31st, 2019, during the evening through January 1, 2020, when the Coast Guard began searching for the *Scandies Rose*?

A. I was at home, off duty here in Seattle.

Q. So did you play any role in that specific case?

A. I did not. I, over the course of January 1st, exchanged a couple of text messages with my counterpart in Juneau. I'd seen that, that had happened and kind of wished him well and asked him if he needed anything from me. He said they think they had it and they were busy and -- yeah, I try to do that whenever possible when there's a big case going on. And especially when I know -- we have a very small, tight group of the SAR program introduced

within the Coast Guard. There's only 11 of us. So we keep pretty tight tracking each other, and we're kind of self-supporting in that way.

Q. Okay. So you could you tell me how you became engaged in the -- or confirm for me that you were engaged in the SAR case review process?

A. The SAR case review was completed by -- a command member in Sector Juneau had assigned -- it was assigned to him by Rear Admiral Bell soon after the case had been completed. I previously worked with a person that completed the SAR case review and was consulted as a SAR SME, along the case review itself, just to kind of look at facts and timelines and generally kind of just go over, go over the recommendations and opinions that he had formed. That's very typical of my position from the Coast Guard. I did go to Juneau, and I talked to him one on one, and I also did some, did some informal interviews with some of the watch standers and people involved in the, in the SAR case to assist in that process.

Q. Okay. Lieutenant McPhillips, could you please pull up Coast Guard Exhibit 076? And, Mr. Giard, that is the Search and Rescue case presentation that you provided to the Marine Board of Investigation. So that will pop up here just shortly. Let me know if you can see.

A. Yeah.

Q. Okay. So what I'd like to do now is essentially have you present this presentation and walk us through your review of the

circumstances of the Search and Rescue effort made by the Coast Guard for the *Scandies Rose*.

A. Okay. All right. Next slide. This is an overview of the case. I do think it's been pretty well covered in the preamble of the MBI. This is my shortened version of that, so if we can go to the next slide.

The next side is location overview, just for folks that may not be familiar with Alaska and kind of where things are. The green triangle is the last known position of the *Scandies Rose*. The box around it is the search area that the U.S. Coast Guard searched and then the SAR District locations of prominent Coast Guard units that were involved in the case.

The next slide shows some of the distances to the last known position from in between Air Station Kodiak and the Coast Guard Cutter *Mellon*. The C-130s were up in Anchorage due to weather, and so they had to travel 417 nautical miles to the last known position. Air Station Kodiak is 190 miles as the crow flies, and the *Mellon* was just south of the peninsula on the chain, and they were approximately 185 miles southwest of the last known position of the Scandies.

Next slide.

This is just a visual depiction of the Search and Rescue units that we utilized during the Search and Rescue case. they were using the J models of the C-130 airplane, the T-models of the MH-60 helicopters, the previously commissioned 378-foot high

endurance cutter, and then just a quick kind of stock photo of what one of our joint rescue coordination center and what it looks like.

Next slide please.

This is a timeline I put together for what happened just over the Search and Rescue case. I won't go over all of this, but essentially, a call came in to COMDET, who quickly notified the joint rescue coordination center in Juneau. They then notified Sector Anchorage, who assumed SMC -- I believe Sector Anchorage assumed SMC, SAR mission coordinator, due to them thinking that it was in their Search and Rescue responsibility area and not -- it was in the joint rescue coordination center's predesignated area, but they assumed SMC and got the ball rolling on starting to request support within the Coast Guard.

A few minutes later, they notified Air Station Kodiak and started talking to them about how they were going to get some assets on scene, and then the COMDET in Sector 8 both issued an urgent marine information broadcast, which is a broadcast that goes out over various radios and even satellite means to let mariners know that there's a distress situation, essentially some parameters about that, and if they're going to assist (indiscernible).

After about an hour or so, there's been a lot of, a lot of discussions back and forth between -- in and around the SAR chain of command and with the SARUs at Air Station Kodiak. It was --

the decision was made for Captain Hollingsworth at D-17 to assume SAR mission coordinator back from Sector Anchorage due to kind of the distance and complexities as well as using the high endurance cutter and weather.

And at that time, the *Mellon* was formally diverted to the scene. At 11:30 local time is when the first helicopter from Kodiak was airborne. And then, about two hours later, the first C-130 got airborne and headed to the scene. At 2 o'clock, the first helicopter arrived on scene and very quickly located a raft. They first located an empty raft and then found the second raft that had the survivors in it and was able to hoist them. There was some question on where the survivors were going to be taken to and where they were going to get fuel from. Ultimately, the aircraft commander decided to take them all the way back to Kodiak.

Right about the same time that the survivors were hoisted, the C-130 got on scene. The C-130 -- the original C-130 was very ineffective in searching due to the weather on scene and really wasn't able to do a whole lot of -- certainly no visual searching. They tried to do some radar searching, but it's really difficult when they have the weather that they did on scene. Shortly after, the second helicopter is dispatched from Kodiak, and then about 15 minutes after that second 60 was launched, the original 60 with the survivors landed on deck and transferred those survivors to emergency medical services.

Around 5:30, the second 60 began searching and then within about an hour or so was search complete due to weather and fatigue. The search conditions were pretty horrible. Between wind and visibility, it was very hard -- and wave actions, it was very hard to see anything, and the helicopter crews went through quite a bit of fatigue on scene just to try to keep the helicopter kind of going straight line searching.

The second C-130 departed right before 8 o'clock in the morning, and then -- or sorry, the first C-130 departed right before 8, and then the second C-130 departed right after 8. And they sort of passed in the wind to each other.

A third 60 was launched at 9 o'clock and got on scene about an hour and a half later. They were on scene for a little bit less than an hour. They had a mechanical issue. They had an APU failure, auxiliary power units, and it's essentially a generator onboard, and they use it especially when it's -- when they're deicing and it's really cold, depending, you know, on how that APU went online. So when they have -- they have two, but when they have one of the APUs go down, they generally return to base and try to troubleshoot, and that's what they did.

They did launch a fourth 60 at about 2:20 on the 1st of January. It got back on scene a couple hours, just a couple of hours later, right about the time that the *Mellon* got on scene, completed some searching, and then was low on fuel. Due to the distance from Kodiak to the scene -- you know, it's 190 miles as

the crow flies -- it only allows them about around an hour of search time. Then if they're -- if they have to -- if they find something and stop and hover and look, then that degrades down even more, so you're looking at maybe only about an hour or slightly less than hour each time once he was down on scene and searched.

And then, during that time is when the family was being briefed and the Coast Guard was briefing and formulating suspension plans. And then the *Mellon* stayed on scene. It was the last SARU to stay on scene until Admiral Bell granted suspension shortly after 6 o'clock p.m. Alaska Standard Time on the 1st.

So the next slide.

So the next set of slides, these are screenshot from the SAROPS program that I ran. These were the, these were the runs that were completed for the case itself, and all I did was take screenshots and put some additional information. So this is, this is the last known position -- so that little SOS symbol with the boat is the last known position that was initially reported to the Coast Guard, and then the orange raft or the red raft was the location where the two survivors were located.

The next slide shows the initial, the initial drift model when the first helicopter arrived on scene. So the particle -- they drifted three different search objects: they drifted a liferaft with no drogue, no canopy and no ballast, and then they

drifted two different persons in the water, one in a sitting position and one in a laying position. So those drift differently.

So the search, they can kind of see the outline around that raft. There's a little bit -- there's a gray triangle -- sorry, a rectangle around it. That was the planned search for the 6038s, but instead of completing that search, they located the two liferafts and decided not to do the search and hoist -- essentially, they hoisted the survivors. So the first search was not completed by the helo because they located survivors, and then the C-130 was unable to complete their search pattern due to weather and search conditions. So they basically stayed above the clouds and provided cover in the form of like a flying radio station.

Next slide is on the second set of searches. So each of these EPOCs -- and an EPOC is just the next stat of simulation. So the first one we designate, we just start with Alpha. So the second set of searches is Bravo. We had one search plane in Bravo, just Bravo-1. It was, it was completed. However, where the red -- or the yellow arrow is and pointing to that circle, the controller that was -- well, the team that updated the scenario -- the original scenario was based off the last known position of the *Scandies Rose*, that green circle with the SOS. Well, this area was changed due to the liferaft location, and the liferaft location -- ultimately, there were multiple different positions

passed for where the liferaft was located, and they wanted to use the liferaft as their next data marker just to have their second searches based off of.

Unfortunately, what happened was the -- in some way, it's not completely clear, but the position was passed incorrectly. And so the second set of searches were based off of that brown circle, and that's where the Coast Guard assumed the second liferaft was, so -- and that's north of Sutwik Island, which I looked at these models, and I drifted them back and forth and included a bunch of other search objects in the area. It would be, it would be very hard, based on the weather conditions that night, for a search object at this point in time to have gone around the northeast tip of Sutwik Island and end up north of Sutwik Island. I know they have these discussions on the watch board, but from when I talked to them, they just had nothing else to base it off of, so they just went with what they had. So in my opinion, this search is kind of completely useless because the general -- the particles were moving south and east and not north and east. So this search was probably just for nothing.

Next slide is the first C-130 pattern.

And then the next slide is the third helicopter search. This is the one -- this is the helicopter sortie that had to depart early. On the chartered search, there was two helicopter patterns planned next to each other. The dark black was the search that was actually completed before the helicopter had returned to base.

And then just south of that you can kind of see a darker gray kind of shadow. That was the second search that was planned, but it was not completed because they had to leave because of that APU failure.

Next slide was the second C-130 search that was completed. So the second C-130 after the first C-130 was able to complete 90 percent of its search. It's a pretty large search kind of just south of Sutwik Island. They did relocate the raft on this search, and the helo did a search for signs of life as well as the C-130, and there was nobody inside the the liferaft. The liferaft had made it pretty far at this point from the last known position of the vessel. It really was moving.

And then the next slide was the final helicopter search. About 75 percent of that search was completed when that liferaft was found. They did lower the swimmer and then ultimately deflated it. It's a general practice to keep liferafts afloat for a certain period of time in the event that a survivor finds one and jumps into it, but usually, when it's gone a very far distance and there's no, there's no -- it's been checked more than once, instead of having it continue to leave the area -- it may become a navigational hazard or need to be relocated farther away and waste time -- we deflate them so we don't have to deal with them in the future.

Then the next slide is the *Mellon* search. Once they got on scene, it was a small search. The *Mellon* -- the vessel searches

are much slower. So it looks small, but it does take quite a bit of time, and it was centered over an area -- a high probability area based on where those persons in the water still were. You can see here there's kind of two distinct colored areas. The area around where the *Mellon* was searching and then that area south and east, that kind of larger longer blob, that larger longer blob is the simulator liferaft. So the liferaft just moves faster than the PIWs do, and so at that point, they almost -- they were almost completely separated.

And then the next slide is just an overlay of all the final searches overlaid together that were kind of all completed concurrently with the Mellon, C-130, and the 60 here.

And then the next slide shows -- the simulation is approximately at the time of suspension, so around 1800 local time, and you can really see where the, you know, the majority of the search -- the searches were completed over the area, you know, between kind of last known position and where the liferafts were located.

And then that second set of the liferafts just continued to keep pushing and pushing out, and that's because the liferaft has sail area, and the sail area of the liferaft and the search objects action that they used, because it has no drogue and no canopy and no ballast, is essentially like -- you know, just like really scoots across the water. It really -- the current doesn't have a whole lot of effect on it, and the wind really does, so it

really moves quite quickly. I don't, I don't think it would have moved that quickly if they would have selected a different, a different liferaft. That liferaft was actually -- the two liferafts that were onboard -- if they gave us a description of the two liferafts that were on board, I don't think it would have drifted as quickly.

And then the next slide is just a depiction of all of the search effort and search patterns overlaid without the particles and probability grid there, just so you can kind of see -- all those black lines are essentially where the airplanes, helicopters and boats actually flew over.

And then the last slide here is -- it's just a search effort summary. So for the *Scandies Rose* case, there were ten searches planned. Six of those planned searches were completed. There were two scenarios; both were last known position -- one was the last known position of the *Scandies* and the second scenario was the kind of onerous liferaft position off the Bravo search. In total, there were 780 square nautical miles searched, 817 tracked miles searched. For that case duration of about just under, just under 24 hours, we were on scene about ten hours actually searching. The total case duration was 20.3 hours.

And then the last slide is just the logo.

Q. Okay. Mr. Giard, I thank you for that presentation. I'd like to take just a few minutes to focus on a few different areas, and then I'll save the rest of the time. Can you speak again --

you mentioned it before, but can you speak to the timeframe of the Coast Guard response to the *Scandies Rose* case?

A. Yeah. Specifically, there were -- there was some gaps in time where our assets were not on scene. We generally try to like have continuous coverage, especially when you have persons in the water or there's a potential for people in rafts or people in the water, and that's just to provide them the most opportunity to be found. It's not always possible, especially due to the sheer distances, you know, and the weather.

It would be really hard to provide 100 percent coverage in a case like this. You could if you had a lot more assets or more assets available or if they were closer, faster for some reason, and that just wasn't the case. There were -- there certainly was a lot of time where we weren't searching, and there were gaps of, you know, three, two and a half, three and a half, four and a half hours between the main times of your searching that there was, there was nobody on scene searching.

There's a lot of reasons why that happens. I think, after talking to the crews and planners, weather played a huge part into that. Crew availability on New Years Eve night played into, played into that. The C-130s being in Anchorage played into that. I think the vantage (ph.) control and oversights, the risk management discussions played into, played into that. The shift of SMC from the sector to the districts took up some time, and I think there were gaps. Some of those gaps were kind of built in

based on some of the risk management decisions and weather. But some were kind of exacerbated by the Coast Guard's maybe tunnel vision on trying to figure out, you know, what they could do to get things out there instead of just moving quickly to get things out there.

I think that, in this case, we would have had to continually launch assets about every hour or so, one to two hours, to try to get continual coverage on scene. There wasn't that many assets available to do that, but there were also, I think, significant gaps in time where we probably could have launched aircraft a little bit quicker to get them on scene faster. But that could have provided gaps in different parts of the case, so yeah. I'm not sure if that answered your question.

Q. Sorry with the technical difficulties over here. So it did answer quite a bit of the question that I had. So from your assessment, and very, very briefly, you mentioned some of the challenges. Would you elaborate on some of the challenges with the Search and Rescue response?

A. Yeah. Weather was a huge factor. Weather is always a factor in Alaska, so it's kind of -- you know, it's always assumed like things are going to take longer because the weather in Alaska is terrible. But the crews there are trained to understand weather, and the Search and Rescue training program that we have in the entirety of the Coast Guard, there is a significant amount of training that's put onto local weather systems, how things work,

how to get around them, you know, how to mitigate them.

But weather was a huge factor, and, you know, if there's 50-knot headwinds and snow and icing conditions, it's going to slow things down. There's just nothing we can do about it. We don't have assets that can go, you know, any faster than that. We have assets that can go in that, but it certainly slows them down and really keeps them from having more time on scene because it burns a lot of gas.

I think the launch times and kind of asset logistics played a huge role into some of the gaps that we had between search parties on scene. I think the time of year, being that it was New Years Eve, they're only, they're only required to have one B-0 crew, and so they only have one crew that's ready to go. And then, when they need more crews, they simply have to kind of call around and find more crews. And when that happens on a holiday, that's a little bit harder due to various things. People are just off duty. So we'll find -- there's always an oncoming crew that's ready to come up, but they need to have a certain amount of sleep before they can start.

And then, but I do think that the operations staff at the air station did an exceptional job of getting extra crews to man those helicopters to come out. There certainly could have not been able to have that many crews been together, and we would even have a smaller response than we did. But I think they did a great job of trying to get them. It was just really hard.

SARU Comms were very difficult on that first helicopter. There's a lot of back and forth on whether the helicopter was going to recover at Akutan or go to Cold Bay or recovery at Sand Point or go all the way back to Kodiak. And ultimately, it -- based on a breakdown of communications and they couldn't hear, the pilots decided to go back to Kodiak, which I'm not sure -- I did not really game out if any of those other fuel options would have saved some time of getting that helo back on scene. But they had two survivors on board as well, and dropping off two survivors in Akutan in the middle of that kind of weather is clearly not as, not as nice as getting them to Kodiak. So I think getting them -- I think the pilot's decision to take those -- to take Mr. Gribble and Lawler to Kodiak was a good one, albeit probably took them a little bit longer to get back on scene because they had to recover all the way back to Kodiak.

And then the rest was just coordination, longer coordination calls and coordination oversight calls between the SMC, the districts, the command centers that kind of took up a lot of time and took the focus off of -- took the sole focus off of making sure that the Coast Guard was leaning forward and getting assets on scene as quickly as we possibly could. I think that we probably could have done a little bit better job at making sure -- leaving those comms up a little bit or negating some of those comms and just focusing on getting our folks on scene.

And then also it's kind of minor, but we did have -- the

joint rescue coordination center put in a significant amount of effort trying to find owner and next of kin information. And we had some of that available to us, but it's just not really built in. There's a multitude of ways you get it. In Alaska, a lot of times the harbor masters and just kind of local people that we just have these 24 hours numbers for and didn't receive the information we're looking for, but a lot of times, it's right under our nose as well in databases that we own, whether it be in the MISLE database or in the SARSAT registration database.

So I think that we, as a Coast Guard, can do better at training our folks to look at the things that we have and that might have kept them focused on things that -- really more focused on getting resources on scene then just trying to find next of kin and try to find the -- if the EPIRB had gone off, then the registration database would have sent them an alert with all of that on it. But since the EPIRB didn't go off, it didn't. But they didn't think to go into the database for an EPIRB that didn't go off, so that's not the standard.

Q. Mr. Giard, thank you so much for your testimony today.

CDR DENNY: Captain Callaghan, that is all the questions I have at this time.

CAPT CALLAGHAN: Great. Thank you, Commander Denny.

Mr. Giard, I kind of -- it's been -- we had about, just about an hour and 20 since the last break. Are you okay for a quick five-minute recess?

THE WITNESS: Yes, sir.

CAPT CALLAGHAN: Okay. We'll go ahead to a five-minute recess and reconvene at 1616.

(Off the record at 4:10 p.m.)

(On the record at 4:18 p.m.)

CAPT CALLAGHAN: Okay. It's now 1618. This hearing is now back in session.

Mr. Giard, thank you being patient with us. So just one question from me before I pass it to our friends at the National Transportation Safety Board.

BY CAPT CALLAGHAN:

Q. With respect to other efforts -- so we've talked a lot about Coast Guard efforts in, you know, internal to our resources. Were there any efforts related to this case with the *Scandies Rose* to reach out to other resources, other vessels in the area to try and make contact?

A. Yes, Captain. Originally, there was some call outs done by comms at Kodiak, and then that's the -- essentially the primary purpose of sending the urgent marine information broadcast is to try to get folks to call back and see if they, one, heard the mayday call and, two, to see if there's anybody nearby that could assist based off the last known position.

Q. And so in terms of doing that, is there a common tool that the Coast Guard can use to readily find, say, SAT phone numbers, you know, in a real time case?

A. There's a couple of different methods. Generally, certain fishing vessels, they almost all have registered EPIRBs. And so one of the fastest ways is to query -- if you know about someone who might be able to respond and want to get a hold of them, you can look up them in the NOAA's SARSAT registration database, and it usually has a cell phone number and a MARSAT number for the vessel and sometimes other numbers, and/or has at least the contacts for those vessels, and they usually provide us numbers.

There's also a system called AMBER. It's a Coast Guard run LRT based system, satellite-based tracking system that is voluntary that vessels provide us with a multitude of information including kind of their positions, their DR tracks of where they're headed, information about how to get ahold of them, and then also any special personnel that might be onboard, like if they have a physician's assistant or a doctor or an EMT on board, and then contact information so we can get ahold of them, we can query them to see if maybe they can turn around and help us out. Because it's very helpful in the offshore environment and in areas where there's not a whole lot of Coast Guard presence.

Q. And what -- along those lines, what tools does the Coast Guard have or utilize to identify where the nearest vessels would be to identify who to reach out to directly?

A. They have a common operational picture that is amalgamated, a whole bunch of different sources that uses terrestrial AIS and uses satellite AIS, LRIT, and it's on a graphical user interface.

And also provide the MS data, and there's some other sources that are also potentially available. They all come up and shows all the AIS tracks, and then we can generally figure out who's gone where. It also provides track histories and generally contact information for the vessels.

Q. Okay. Thank you, Mr. Giard.

CAPT CALLAGHAN: I'm now going to pass it to National Transportation Safety Board. Mr. Barnum?

MR. BARNUM: Okay.

BY MR. BARNUM:

Q. Hi, Mr. Giard. Bart Barnum, NTSB. Thank you for your testimony today.

A. Yes, sir.

Q. So just a question here. So along with all the challenges that the Search and Rescue experienced that -- you've listed many: the weather, the location, the time and date, et cetera. Would you expect to see -- you made the response, the four-hour response for the 2150 -- roughly four hours from the 2150 mayday to the 0200 arrival of first chopper. Is that a typical response time or did you expect to see one quicker or longer given those challenges?

A. I certainly would expect that there would be a delay, a reasonable delay given the extreme environmental conditions for the first crew and then adding some additional time for risk management. However, given the severe nature of the -- kind of

what we knew of the case and limited cold-water survivability at the time, and the fisheries that are both well aware, I think that the launch time of an hour and 22 minutes does seem, does seem a bit long and probably should have been shorter.

Q. Okay. Great. All right. Thank you. You obviously noted that it was a successful mission that recovered two survivors so that should be noted.

MR. BARNUM: That's all the questions I have for you, sir. Thank you.

THE WITNESS: Thank you.

CAPT CALLAGHAN: Thank you, Mr. Barnum.

Mr. Giard, now I'm going to turn it over to our parties in interest.

I'm going to counsel representing the two survivors, Mr. Stacey?

BY MR. STACEY:

Q. Good afternoon, Mr. Giard. Can you hear me all right, sir?

A. Yes.

Q. Perfect. One quick clarification on your presentation. I'm not sure -- Lieutenant McPhillips, if you'd please pull up Exhibit number 76, please, and go to page 2? So you'll see the first line that says, at 2130, you received the mayday call on this first slide. Now, Lieutenant McPhillips, if you wouldn't mind now going to Page 6. On this very helpful timeline here, I see it says, 2150, receives the mayday call. Do you recall which -- what the

exact time was?
A. Yeah. I believe that was a typo on that second slide.
Q. Okay.
A. I believe the correct time was 2150.
Q. I'm sorry, you cut out there a little bit. 2130 was the correct one?
A. No, 2150 is the correct one.
Q. Fifty, okay. Sorry. Thank you. And so, when you received the call, that's a fairly instantaneous, you know, radio call, right? It's not like it's delayed for, you know, minutes or anything like that?
A. No, it's -- essentially, it's instantaneous.
Q. Okay. Wonderful. That's what I thought, but I just wanted to confirm, and 2150 is the time.

MR. STACEY: Those are all the questions I have. Thank you very much, Captain.

CAPT CALLAGHAN: Thank you, Mr. Stacey.

And now to counsel representing the vessel owners, Mr. Barcott?

MR. BARCOTT: Mr. Giard, Mike Barcott for *Scandies Rose*. We want to thank you and your colleagues for what you do, and I have no additional questions. Thank you.

THE WITNESS: Thank you, Mr. Barcott.

CAPT CALLAGHAN: Mr. Giard, I want to thank you. You know, we took quite a bit of time to conduct the view of the Search and

Rescue efforts. We certainly appreciate that contribution to this investigation and to the Board. We greatly appreciate your time today.

I think we can agree that there are certain challenges expected with a Search and Rescue case. In this particular case, there were challenges that began to kind of build on top of themselves given the extreme circumstances and the weather and some of the decisions that go into preparing for that weather with moving the C-130s and just how that potentially moves things down the road a little bit. So it greatly helped -- we greatly appreciate your help in understanding how that all plays out.

I want to thank you and all of your peers across the Coast Guard for you all do to run Search and Rescue on a regular basis, and certainly it helps increase the chances of success when we do have cases. And, you know, fortunately, while it wasn't 100 percent success, we did have a couple of survivors that were picked up in this case, and that's in a large part to the folks like yourself across the Coast Guard that do this mission. So thank you for that.

I want to thank you for your testimony. At this time, you are now released as a witness from this formal hearing. Thank you for your testimony and cooperation. If I later determine that this Board needs additional information from you, we'll contact you through counsel. If you have any questions about the investigation, you may certainly reach out and contact the

investigation recorder, Lieutenant McPhillips.

Thank you very much, sir.

THE WITNESS: Thank you, Captain. Have a good day.

(Witness excused.)

CAPT CALLAGHAN: I'm going to take the opportunity to thank all of our witnesses today for their time and their testimony in regarding what it brings to the investigation as a whole. As in previous days, all exhibits that were presented today will be posted to the MBI media site. In addition, we uploaded a helpful video explaining vessel stability to our livestream and Coast Guard media site for the interest of the public.

Tomorrow, we'll hear from Coast Guard witnesses involved in the Search and Rescue case and from a representative from the Coast Guard's office of Search and Rescue.

It is now 1629 on March 1st. The hearing will now adjourn for today and resume at 0800 tomorrow, March 2nd.

(Whereupon, at 4:29 p.m., the hearing was recessed.)

CERTIFICATE

This is to certify that the attached proceeding before the

NATIONAL TRANSPORTATION SAFETY BOARD

IN THE MATTER OF:	Marine Board of Investigation Into the Sinking of the *Scandies Rose* On December 31, 2019
PLACE:	Seattle, Washington
DATE:	March 1, 2021

was held according to the record, and that this is the original, complete, true and accurate transcript which has been compared to the recording accomplished at the hearing.

Romona Phillips
Transcriber